

**EXHIBIT 8**

**Deposition of First Officer Shawn Mullin**

**(SSI Material Redacted)**

SHAWN E. MULLIN  
PETER DELVECCHIA vs FRONTIER AIRLINES

December 10, 2019

1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3  
4 PETER DELVECCHIA, et al, )

5 Plaintiff, )

6 vs. )

CASE NO. 2:19-CV-01322-KJD-NJK

7 FRONTIER AIRLINES, INC., et al, )

8 Defendants. )  
9 \_\_\_\_\_ )

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11  
12  
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15  
16  
17  
18  
19 DEPOSITION OF SHAWN EDWARD MULLIN

20 Taken on Tuesday, December 10, 2019

21 At 10:00 a.m.

22 At Titolo Law Office

23 9950 West Cheyenne Avenue

24 Las Vegas, Nevada

25 REPORTED BY: SHIFRA MOSCOVITZ, CCR NO. 938

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19  
20

21 Also Present: MONICA HAYWORTH, VIDEOGRAPHER  
22 PETER DELVECCHIA  
23  
24  
25

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## EXAMINATION

WITNESS:

PAGE

Shawn Edward Mullin

Examination by  
Mr. McKay

4,122,134

Mr. Maye

115,132

## EXHIBITS

EXHIBIT

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Notice of Deposition

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Printouts of ACARS Messages

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photographs from employee records 76

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1 LAS VEGAS, NEVADA; DECEMBER 10, 2019

2 10:00 A.M.

3 -oOo-

4 (NRCP Rule 30(b)(4) waived by the parties prior to the  
5 commencement of the deposition.)

6 (FRCP Rule 30(b)(5) waived by the parties prior to the  
7 commencement of the deposition.)

8 Thereupon--

9 SHAWN ADAM MULLIN,  
10 was called as a witness, and having been first duly sworn,  
11 was examined and testified as follows:

12 EXAMINATION

13 BY MR. MCKAY:

14 VIDEOGRAPHER: This is media number one to  
15 the video recorded deposition of Shawn Edward  
16 Mullin in the matter of Peter Delvecchia et al.  
17 versus Frontier Airlines Incorporated, et al,  
18 being heard before the United States District  
19 Court for the District of Nevada, case number  
20 2:19-cv-01322-KJD-NJK. This deposition is  
21 being held at Titolo Law Office, 9950 West  
22 Cheyenne Avenue, Las Vegas, Nevada, starting at  
23 10:04 a.m. My name is Monica Hayworth, and I  
24 am the videographer. The court reporter is  
25 Shifra Moscovitz, with Esquire Deposition

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1 Solutions. Counsel will you please introduce  
2 yourselves and your affiliations and the  
3 witness will then be sworn.

4 MR. MCKAY: John McKay of Park Avenue Law,  
5 for the Plaintiffs.

6 MR. TITOLO: Tim Titolo, for the  
7 Plaintiffs.

8 MR. MAYE: Brian Maye for Frontier  
9 Airlines.

10 (Witness sworn in.)

11 Q. Would you please state your full name?

12 A. Shawn Edward Mullin.

13 Q. And Mr. Mullin, where do you live?

14 A. Las Vegas.

15 Q. Okay. Can I get a residents address?

16 A. Sure, 353 East Bonneville, Unit 820, Las  
17 Vegas, Nevada 89101.

18 Q. Thank you. Have you ever had your  
19 deposition taken before?

20 A. I have not.

21 Q. Okay. Let me just explain a few things so  
22 we are all on the same page here. This is obviously  
23 a meeting in a lawyers' office and with lawyers  
24 present, but it's also a proceeding that is adjunct  
25 to a court proceeding. And that's the lawsuit

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1 between Peter Delvecchia and AD, a minor. And we  
2 are going to be referring to him throughout as AD.  
3 And against Frontier Airlines and others. And even  
4 though this is not in a courtroom, the important  
5 thing to understand is that your testimony given  
6 today is treated precisely as it would be if you  
7 were sitting in a witness seat in a courtroom, is  
8 that understood?

9 A. Understood.

10 Q. And you have been placed under oath. And  
11 so any penalties that apply to not being truthful in  
12 the courtroom would apply to not being truthful  
13 here, is that understood?

14 A. Understood.

15 Q. Okay. Beyond that there is just sort of a  
16 few housekeeping things. If we go on for more than  
17 an hour, we will probably try to break after about  
18 an hour, but if for any reason at all you need a  
19 break prior to that, just let me know. It is  
20 informal enough that we can make those arrangements.  
21 The only thing I ask is that there not be a pending  
22 question when we take a break?

23 A. Understood.

24 Q. Okay. And then very important, and I will  
25 remind you as we go along, if necessary, is that the

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1 court reporter here on the end of the table is  
2 taking down everything that we say for an official  
3 transcript. And because of that we have to be  
4 sensitive to certain facts that we can't change.  
5 One is that she can't type two people talking at the  
6 same time. So there will be times, perhaps when we  
7 will forget that and you will start to answer a  
8 question before I am finished, and I will just have  
9 to remind you that you have to wait until I am  
10 completely finished before you begin your answer and  
11 I will extend the same courtesy to not begin a new  
12 question before you finish answering the previous  
13 one. The other thing is that we have to be very  
14 careful not to use what we call nonverbal responses,  
15 you can't shrug, nod your head, say hmm or anything  
16 like that because that is nearly impossible to  
17 transcribe accurately, is that understood?

18 A. Understood.

19 Q. Okay, thank you. So you testified that  
20 you live on East Bonnevillle here in Las Vegas. Do  
21 you live with anyone there?

22 A. My wife.

23 Q. Okay. What is your wife's name?

24 A. Abingdon Chelsea Mullin.

25 Q. Abingdon?



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1 A. Yes.

2 Q. How long have you lived there?

3 A. I think five years, I think January it was  
4 five years.

5 Q. Does anyone else live there besides you  
6 and your wife?

7 A. No.

8 Q. What would you consider to be your work  
9 address?

10 A. I believe the, well, it's at the Las Vegas  
11 McCarran Airport. I think the address is on Wayne  
12 Newton, but I don't know the number. I can look it.

13 Q. Is there a physical office for Frontier  
14 there?

15 A. There is an office for the chief pilot  
16 that does administrative work, but the head quarters  
17 is in Denver. So there is not any management  
18 personnel other than the chief pilot there.

19 Q. Is that Mr. Hussey?

20 A. Yes.

21 Q. Is that spelled H-U-S-S-E-Y?

22 A. I believe so, yes.

23 Q. What is the first name?

24 A. Devin.

25 Q. D-E-V-I-N?

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1 A. Yes.

2 Q. And so if you needed to report to a  
3 supervisor, then it would be Mr. Hussey at the  
4 airport?

5 A. Yes, he generally has normal business  
6 hours for that, obviously we operate 24 hours a day,  
7 so we have a hotline that we can call after hours.

8 Q. Okay. And if I were to ask you who your  
9 immediate supervisor is, would it be Mr. Hussey?

10 A. Yes.

11 Q. Okay. I am going to ask the court  
12 reporter to mark a document and then I will show it  
13 to you.

14 (Exhibit 1 was marked for  
15 identification.)

16 All right. So what has been placed  
17 in front of you there is Deposition Exhibit 1. And  
18 I will represent that this is the notice of today's  
19 deposition. And if you go to the fourth page, there  
20 is a subpoena to testify. Let me know when you have  
21 gotten there?

22 A. Yes.

23 Q. Okay. And do you see where there is a  
24 check mark beside the word production?

25 A. Yes.

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1 Q. Okay. And it then it has a description of  
2 certain items that are to be produced today. Have  
3 you seen that before today?

4 A. I didn't understand it, but I have seen  
5 this paper, yes.

6 Q. Did you have a chance to discuss it with  
7 your attorney?

8 A. No.

9 Q. Okay. Let me ask you this, did you bring  
10 any documents that are responsive to that?

11 A. I don't believe I have any, anything other  
12 than company related manuals, that would be  
13 pertaining to this situation, so I don't have any  
14 communications to bring.

15 Q. Let me just make sure that I understand  
16 that. Then you are saying that as you read through  
17 the description of materials there on the subpoena,  
18 you believe that there is nothing that you would  
19 have that meets that description, other than company  
20 manuals?

21 A. Correct. I don't have any of those items  
22 that are listed. I don't think I was ever in  
23 possession of any of those, outside of the  
24 interactions we had in the flight deck.

25 Q. Okay. And those were not documented, is

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1 that what you are saying?

2 A. Not by me personally. I mean the  
3 communication we had with the company through the  
4 ACARS electronic system was always, I assume, to be  
5 kept by the company.

6 Q. Yes, we will get into that a little later.  
7 And that's ACARS, A-C-A-R-S, correct?

8 A. Correct.

9 Q. So you did mention some company manuals,  
10 which company manuals were you referring to?

11 A. Our Flight Operations Manuals. We have  
12 three of them, the first one generally talks about  
13 general practices and behaviors and environmental,  
14 the second manual is specific to aircraft operations  
15 and the third one is the aircraft system. So really  
16 the flight operation manual one.

17 Q. Okay. And can we refer to those as FLM's?

18 A. Yes.

19 Q. Let me start with number two. Number two  
20 is a, you said aircraft operations, is that aircraft  
21 type specific?

22 A. Yes.

23 Q. And so if you are flying the A320 there  
24 would be a FLM number 2 that would apply  
25 specifically to operating the A320?

1 A. We only have one FLM number two, it covers  
2 the differences within the family of aircraft. The  
3 A320 family for us. So just one manual for the  
4 freedom aircraft we fly.

5 Q. Does Frontier fly other types of aircraft,  
6 other than the A320 family?

7 A. No.

8 Q. So the FLM number 2 then is something that  
9 every pilot for Frontier would have?

10 A. Correct.

11 Q. And then Number 3, I presume since it's  
12 aircraft systems is also specific to the A320  
13 family?

14 A. Correct.

15 Q. So let me center down on FLM Number 1, and  
16 that you said it was general practices and  
17 behaviors, and I think you mentioned environmental  
18 issues?

19 A. It describes, you know, who the  
20 responsible parties are for us, who our chain of  
21 command is going to be, lists a lot of what would  
22 generally be HR related items, but HR related items  
23 that are specific to us in the flight deck, whereas  
24 we have other procedures and stuff like that.

25 Q. Is FLM number one carried with you in the

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1 flight deck?

2 A. Yes.

3 Q. Does FLM number one include the  
4 descriptions of threat levels?

5 A. Yes.

6 Q. Okay. And is it your testimony that you  
7 did not bring FLM number one today?

8 A. No, I have that today, I have it on my  
9 phone, it's a digital copy.

10 Q. Oh, I see.

11 A. So I have the company manuals with me, I  
12 can reference any of those, if you want me to.

13 Q. Thank you. Yes, I would like you to?

14 MR. MCKAY: Counsel is there a way that we  
15 can get that?

16 MR. MAYE: Well, John that's SSI material,  
17 so we can't produce that today.

18 MR. MCKAY: Are you saying the entire FLM  
19 1 is SSI?

20 MR. MAYE: It is SSI. It's marked by the  
21 company as SSI, I don't know if it's all SSI, I  
22 think Tara will discuss with you the process.

23 MR. MCKAY: I know the process for SSI,  
24 but just trying to understand here globally  
25 that the company has marked the entire volume

1           one of the FLM as SSI.

2           MR. MAYE: Right.

3           MR. MCKAY: And that was the company's  
4           doing as opposed to TSA's doing?

5           MR. MAYE: That's right. It's standard  
6           for all manuals to be marked SSI, and then if  
7           we respond to documents, then we have to  
8           identify the documents, provide it to TSA, TSA  
9           does a designation and we go from there.

10          MR. MCKAY: All right. Well, I believe I  
11          have requested those, but let me ask you this,  
12          to the extent that he references some portion  
13          of the FLM manual, he is allowed to do that,  
14          correct?

15          MR. MAYE: If he has ultimately determined  
16          that the content is SSI, then we will have to  
17          deal with the sealing of record, if it needs to  
18          go to court or redactions, whatever.

19          MR. MCKAY: We can talk freely about it  
20          today, but to the extent that there is an SSI  
21          determination by the TSA, we can come back and  
22          seal portions of the deposition?

23          MR. MAYE: That's right.

24          Q. All right. Mr. Mullin, have you reviewed  
25          anything in preparation for your deposition today?

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1           A.    I constantly review things, it's as a  
2   matter of practice, but yes, I have looked at the  
3   threat levels and items recently, but nothing  
4   specifically for today. I mean it was just stuff I  
5   always like to be familiar with.

6           Q.    All right. For your comfort let me say  
7   that I constantly review things too. But what I am  
8   asking about specifically are things that you  
9   reviewed specifically because you knew you were  
10   coming in for your deposition today?

11          A.    When I first got the notice I did look to  
12   see if there was any additional information that we  
13   may or may not have referenced at the time. And I  
14   looked at it then, but not in the last 24/48 hours,  
15   I have prepared to that extent for this meeting,  
16   yes.

17          Q.    All right. So what I need to understand  
18   today, so we are all on the same page is what  
19   exactly you looked at because you knew you were  
20   coming in here today?

21          A.    Just the FLM volume one, and reviewing  
22   items that pertain to handling of passengers and  
23   safety related concerns and kind of how I am suppose  
24   to make sure, the crew is suppose to make those  
25   determinations on what sections are applicable at



1 the time.

2 Q. All right. And what did you decide in  
3 looking at this were sections that were applicable  
4 to what you understand to be the subject matter of  
5 this lawsuit?

6 A. I think the first thing that I found is  
7 just that the entirety of the manual is driven from  
8 identifying options and assessing the material and  
9 trying to make the safest course of action with what  
10 we have. And one of the things that we address as  
11 pilots is that the view out the front of the window  
12 or the view that we are actually, or the actions  
13 that we are taking is never perfect. So there is  
14 always variables that we have to address. So the  
15 manual describes kind of talking about always try to  
16 ear on the side of caution. And give yourself the  
17 most opportunities and most options, as you continue  
18 your flight. Specifically, as I looked up safety,  
19 it talks about the threat levels that you mentioned  
20 earlier and what clarifies a certain level of  
21 threat. Those particular levels of threat, I think  
22 the ones you were describing, we can look it up.  
23 They pertain to a [REDACTED]

25 Q. Sure.

1           A.    So I don't think it was directly  
2   applicable, as I read through it, especially as you  
3   get beyond level two and on, it had zero application  
4   to what we are talking about.

5           Q.    Right, because beyond level two and on is  
6   talking [REDACTED]

[REDACTED] right?

8           A.    Yes.

9           Q.    So you looked at safety and specifically  
10   within safety you looked at threat levels. What  
11   else did you look at?

12          A.    I performed several searches through the  
13   manual. The search for safety or passenger  
14   reassignment.

15          Q.    Did you find something for passenger  
16   reassignment?

17          A.    Not in my manuals, no.

18          Q.    What else did you search for?

19          A.    Give me a second to think.

20          Q.    Sure.

21          A.    I looked up, like up I am trying to think  
22   of the word that I typed. I was trying to look up  
23   something to described the situation that we were  
24   given in the cockpit. So I was looking up  
25   inappropriate or just passenger comfort.

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1 Q. Okay.

2 A. I went through probably five or six  
3 searches in the course of five minutes and didn't  
4 come up with many other than the safety manuals.  
5 Are manual is very specific of what happens in front  
6 of the door, not necessarily what happens behind the  
7 door.

8 Q. So you ran a bunch of searches that you  
9 felt describe what you had been presented with and  
10 at least from the standpoint of the FLM part one, is  
11 it fair to say that you came up with nothing other  
12 than the threat level discussions?

13 A. Yes.

14 Q. Okay. And that is the only documentary  
15 information that's provided to you by Frontier for  
16 programs dealing with a situation like that?

17 MR. MAYE: Objection to form.

18 Q. Let me ask it a different way. Is there  
19 anything else that Frontier provides to you that you  
20 might have consulted concerning the information that  
21 was provided by the flight attendants?

22 A. As a pilot, I don't believe we have  
23 anything that relates to that. The only procedures  
24 that I have ever seen that address our interactions  
25 with passengers and the public, in general, has to

1 do with when we are on the ground, and how we  
2 perceive ourselves and how we interact with the crew  
3 and the other passengers as we are in and out of the  
4 airport or before the cockpit door is closed.

5 Q. So items like professionalism, comportment  
6 and uniform, those sorts of things?

7 A. Yes, I mean that the -- we have, every  
8 station has a person designated to handle disputes.  
9 And while the door is open, and I mean the door that  
10 the passenger does embark from, that person is  
11 always going to be somebody stationed at the  
12 airport. It's not us. So we are to defuse a  
13 situation as much as possible and offer as much,  
14 gather the appropriate people to allow them to make  
15 the appropriate decisions. Once the door is closed,  
16 the cockpit door is also closed at that time before  
17 that. So we deal with operating aircraft as safely  
18 as possible and trying to take the information we  
19 have received, not only from the crew members that  
20 are working in the back, but the information that we  
21 have accessible to us and the crew members we can  
22 talk to on the ground, and operate the aircraft as  
23 safely as possible.

24 Q. When you mention that you ran a search for  
25 passenger reassignment, can you just explain what

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1 you meant by reassignment?

2 A. Um, I was trying to find something that  
3 described a procedure for if a passenger likes to  
4 move or if a passenger asked to move or if there was  
5 a passenger that was in a, you know, there is a  
6 larger passenger that maybe was discomforting them  
7 or something like that. And our manuals don't  
8 describe anything relating to the passengers other  
9 than when it talks about medical history. And if  
10 there is something going on in the back, what  
11 information we should try to gather, but our, it  
12 doesn't describe our interaction with the passengers  
13 because we don't have any.

14 Q. Okay. What I was specifically wondering  
15 about was the term reassignment. Did you mean  
16 assigning a passenger a different seat than the one  
17 the passenger was in?

18 A. Yes.

19 Q. Okay. Let me just get some back up and  
20 get some basic information here. How long have you  
21 been employed with Frontier?

22 A. August 6th of 2018, almost a year and a  
23 half.

24 Q. And where did you work before?

25 A. Most recently I was flying corporate in

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1 Las Vegas. I flew for a private individual, and I  
2 had a business teaching people how to fly.

3 Q. Okay. So you hadn't worked for an airline  
4 prior to working for Frontier?

5 A. I worked at Spirit Airlines in 2016 to  
6 2017.

7 Q. What did you do for Spirit?

8 A. I was a first officer there as well.

9 Q. And where were you based?

10 A. Atlantic City, Fort Lauderdale and Las  
11 Vegas.

12 Q. Okay.

13 A. Treatings in Fort Lauderdale there as  
14 well, so I came all around.

15 Q. I am sorry, I didn't hear you.

16 A. Sorry, I came all around. Many places.

17 Q. So in just a year of working for Spirit  
18 you were assigned to three different bases?

19 A. Yes.

20 Q. Have you worked for any other airline  
21 besides Frontier and Spirit?

22 A. No.

23 Q. When you decided to seek employment with  
24 Frontier, did you file an application with them?

25 A. Yes.

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1 Q. And that was a written application?

2 A. Yes.

3 Q. All right. Now, who keeps documents  
4 pertaining to your being hired and things along  
5 those lines, do you know?

6 A. I think those fall under several  
7 categories. The chief pilot's office I think  
8 handles a lot of initial inquiries, the HR  
9 department handles a lot of the filtering. And that  
10 process, because I think I have heard that process  
11 is in the process of changing. And then we also  
12 have the attorney department, which manages all of  
13 our actual FAA records and history and stuff like  
14 that.

15 Q. We talked a little bit about the chief  
16 pilot being Devin Hussey. Was he the chief pilot on  
17 March 28, 2019?

18 A. Yes.

19 Q. Okay. Let me just get a little bit of  
20 your qualifications here. You have an ATP. Okay.  
21 And from the FAA, also private privileges for roto  
22 craft?

23 A. Correct.

24 Q. And commercial for single engine C, is  
25 that right?

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1 A. Correct.

2 Q. Okay. You are type righted to fly the  
3 A320 family of air craft as a PIC?

4 A. Correct.

5 Q. Have you ever flown as a PIC?

6 A. Yes.

7 Q. Okay.

8 A. Not at Frontier.

9 Q. Not at Frontier. Where did you fly as  
10 PIC?

11 A. I flew an A320 from Kansas City. No, from  
12 Roswell to Kansas City. That's the extent of it.

13 Q. Okay. Very good. So that was just a  
14 fairy flight or reposition?

15 A. Yes.

16 Q. All right. Now, I want to ask you about  
17 flight 2067 on March 28, 2019 flight for Frontier  
18 from Raleigh-Durham to Las Vegas. So you are  
19 familiar with that flight?

20 A. Correct.

21 Q. And were you the first officer on that  
22 flight?

23 A. Yes.

24 Q. Now, where did that day, and I mean March  
25 28, where did that day begin for you work wise?



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1 A. I don't remember. I believe it was in  
2 Raleigh, but I honestly don't remember.

3 Q. Did you fly a flight prior to this flight  
4 from Raleigh to Las Vegas?

5 A. I don't recall if it was that day or the  
6 day prior.

7 Q. Okay. Either way whether it was that day  
8 or the day prior was that with Captain Shoop?

9 A. Yes, the day prior was.

10 Q. Okay. And had you flown with him before  
11 that flight, the day before?

12 A. I do not believe so.

13 Q. So you didn't know him well?

14 A. No, that's very common. There is enough  
15 pilots, captains that I could theoretically never  
16 fly with the same one again.

17 Q. Sure. Do you know how many pilots there  
18 are for Frontier?

19 A. Yes, roughly 1400 or so. We have 120 in  
20 each seat in Las Vegas.

21 Q. You have 120 for each seat?

22 A. Yes.

23 Q. So 240 pilots are assigned to the Las  
24 Vegas base?

25 A. Yes, I think it's 118 next month, it

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1 changes every month.

2 Q. When is the last time that you spoke with  
3 Captain Shoop?

4 A. In a formal capacity was that flight. I  
5 believe I think he was commuting to his home on a  
6 flight I was operating as a pilot, so I saw him in  
7 the boarding area and said hi, that was it.

8 Q. Well, I wasn't necessarily restricting the  
9 to formal capacity. So let's talk about all  
10 capacities. That's the last time you spoke with  
11 Captain Shoop?

12 A. Yes, I don't even think I have his phone  
13 number. But the last time I saw him, it was  
14 probably in the last six weeks. He was going from  
15 Las Vegas to Salt Lake to go home or something.

16 Q. All right. So you didn't speak with him  
17 after his deposition was taken the other day?

18 A. No.

19 Q. Okay. Did you speak with anybody who told  
20 you what he said in his deposition?

21 A. No.

22 Q. Did you review any transcript of any type  
23 from the deposition?

24 A. No.

25 Q. Okay. All right. Getting back to this

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1 flight then, 2067 from Raleigh to Las Vegas, what  
2 was the first point in that flight where you became  
3 aware that there was something going on with respect  
4 to a man traveling with a child?

5 A. Um, I believe it was an hour-ish, maybe 45  
6 minutes into the flight. The flight attendants  
7 typically will call us after they finish their  
8 called service where they offer drinks and food.  
9 And normally the conversation is very short. Just  
10 do you guys need a break, we are free for a second.  
11 And that was the first time I think the captain took  
12 that call. But I remember he said that there was  
13 something they were working on in the back and  
14 didn't really elaborate on much of it.

15 Q. Okay. Let me get into what is probably  
16 going to seem like unnecessary nitty gritty details  
17 here. But first of all, which of the two pilots was  
18 flying this leg?

19 A. I believe the Captain Shoop was.

20 Q. Okay. You don't recall yourself being the  
21 pilot flying?

22 A. I could check my logbook. I have that  
23 with me, as well.

24 Q. Could you check that please?

25 A. Can you give me my phone?

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1 MR. MAYE: Sure.

2 Q. I apologize, I forgot to ask Captain Shoop  
3 and so the spot lights is on you. Let's take a  
4 break.

5 VIDEOGRAPHER: The time is approximately  
6 10:32 a.m. we are going off the record.

7 (Whereupon, an off the record discussion  
8 was held.)

9 Video, the time is approximately 10:35, we  
10 are going back on the record.

11 Q. All right, sir. Did you have a chance  
12 during the break to check your log box?

13 A. I did.

14 Q. And who was the pilot flying that leg?

15 A. That leg Captain Shoop was flying.

16 Q. Captain Shoop, okay, now for the nitty  
17 gritty details. When somebody calls on the intercom  
18 to the -- if a flight attendant calls to the  
19 cockpit, what is the process for taking the call?  
20 Let me put it this way, let me tell you why I am  
21 asking. That may make it easier. Is it in the  
22 nature of flipping a switch so the two of you can  
23 hear it through your headsets?

24 A. That's, there is many variables to this  
25 question.

1 Q. Okay.

2 A. But I think the answer you are looking for  
3 is when the flight attendants call it rings. So it  
4 flashes and rings at us, so we know it. The, either  
5 pilot can select to have the speaker on or off. The  
6 sound always also goes through our headsets.

7 Q. Okay.

8 A. When we are speaking with the flight  
9 attendants or making PA announcements, it's very  
10 common practice to turn the speaker off for the  
11 pilot that's going to be communicating because it's  
12 really sensitive for feedback. We wear our headsets  
13 at all times below 18,000 feet. And I would say 50  
14 percent of the time above 18,000 feet. When our  
15 headsets are on, our selections of who listens to  
16 what is completely independent. When our headsets  
17 are off, we can vary volumes at three or four  
18 different locations for both of us. So a lot of  
19 times I may monitor a second frequency on a low  
20 volume, even if it is coming on, they can't hear it,  
21 there is enough background noise that hearing stuff  
22 across a cockpit is relatively difficult to make out  
23 anything.

24 Q. So just to dispel a concept and there is  
25 not a situation where the captain picks up a, like a

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1 telephone handset and listens?

2 A. That can happen, as well, yes.

3 Q. So on this particular instance, when we  
4 are talking about the first call from a flight  
5 attendant, first of all, how was it received by  
6 Captain Shoop, was it on the handset or was it over  
7 a speaker?

8 A. I don't remember, it's very uncommon that  
9 they use the phone handset. It is very common,  
10 90 percent of the time they answer it on their  
11 headset, on the headset with the mike boom that we  
12 would use to communicate with ATC. The telephone  
13 one only talks to the back or a PA.

14 Q. Okay. Did you listen to this initial  
15 call?

16 A. I don't believe so, no.

17 Q. Okay. How did you find out then what the  
18 flight attendant said to Captain Shoop?

19 A. After the -- after they completed a  
20 conversation, generally the second crew member is  
21 informed of what was going on. You know, is it,  
22 they give you a status, are most people sleeping or  
23 are they awake, does everyone have, passengers ask  
24 if they could find a smoother ride, if it's too  
25 bumpy. And we just kind of give them a general

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1 update. So the second crew member gets informed of,  
2 generally as much as possible so we are both aware  
3 of everything as possible. So after they finished  
4 their conversation we just described what was going  
5 on back there, you know, they typically ask us, like  
6 I said, if we want a break, which they have to set  
7 up for and secure the front of the cabin. So that's  
8 a process. And we typically discuss those things.

9 Q. To the best of your recollection, after  
10 Captain Shoop received this call, what did he say to  
11 you then?

12 A. Um, I don't remember specifics of the  
13 words that he used, but I do remember that there was  
14 a conversation, he said that the flight attendants  
15 had a potential situation in the back that they were  
16 going to monitor. And he told them just to monitor  
17 the situation and to call back if any additional  
18 information came up.

19 Q. All right. Now that certainly must have  
20 piqued your curiosity?

21 A. Sure.

22 Q. Did you ask him what was the nature of the  
23 situation?

24 A. Yes, I mean he said it was two passengers  
25 that were seated next to each other. That one of

1 the passengers was a younger child and the other  
2 passenger was an older gentleman. They appeared to  
3 be traveling together, but the interactions that  
4 they, the flight attendants told were just something  
5 that they wanted to monitor, that they were  
6 concerned. And if the situation had to continue  
7 that it could have been a situation we don't want --  
8 we want to avoid.

9 Q. Got it. But those generalities, if that's  
10 the way it was described to you, as a normal human  
11 being you probably would have said, well, what the  
12 heck is going on back there, right?

13 MR. MAYE: Object to form.

14 Q. You can go ahead and answer.

15 A. I don't, that, it wouldn't be that common  
16 for those kind of conversations to happen. That  
17 each of us crew members, the front and the back have  
18 our own duties, so it's common that we will say,  
19 hey, I am going to check on something, I will let  
20 you know later on. But that's not uncommon for me  
21 to hear, between the captain and I, that's a little  
22 more infrequent. And yes, I mean, generally, we  
23 would ask more questions, and we just discussed it  
24 for a second.

25 Q. What did you discuss?



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1           A.     We discussed if there was any, if there is  
2     anything that we feel that we should inform the  
3     flight attendants of extra steps to take or...

4           Q.     Sure.

5           A.     Or extra information that they could  
6     gather.

7           Q.     Yes.   And of course in order to have that  
8     conversation, you would need to know more specifics  
9     than just there is an older gentleman traveling with  
10    a younger child?

11           MR. MAYE:   Object to form.

12           Q.     You can answer.   He just didn't like my  
13    question.

14           MR. MAYE:   Yes, I don't like it.

15           A.     I don't believe that's the case.   I mean  
16    it's very common for the flight attendants to give  
17    us very broad information about passengers and  
18    information.   And I mean it's, all of us have our  
19    own duties, so that's not uncommon at all.

20           Q.     I understand that.   You and Captain Shoop  
21    have duties to fly the aircraft?

22           A.     You mean the front and back.

23           Q.     Yes.   And you have duties that you try to  
24    keep up in the front of airplane, but then if  
25    somebody calls you and says there is a situation in

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1 the back, you understand that it could very well  
2 involve one or both of you, right?

3 MR. MAYE: Object to form.

4 A. I don't know how -- I don't understand.

5 Q. Well, you, for instance, you testified  
6 about threat levels?

7 A. Correct, yes.

8 Q. And so if somebody from the flight  
9 attendant group were to call the cockpit and provide  
10 information that starts to make you think about  
11 threat level assessment, that's something that would  
12 involve either of the first officer or the captain  
13 or even both of them, isn't it?

14 A. Only from a standpoint that we wouldn't,  
15 we would separate ourselves from the back for the  
16 remainder of the flight. I mean we would address  
17 items with our SOCR company procedure, our company  
18 back in Denver, and try to resolve the situation as  
19 quickly as possible. It wouldn't involve us going  
20 back there.

21 Q. No, I wasn't saying that it would involve  
22 you going back there. I was suggesting that it  
23 could involve more than the sphere of looking out  
24 the windshield and flying the airplane?

25 A. Yes.

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1 Q. Because you do have duties with respect to  
2 certain types of threats, right?

3 A. That's a true statement, yes.

4 Q. Okay. So if the flight attendant calls  
5 you and says there is a situation and we are going  
6 to monitor it, it would be important to know whether  
7 that step, a particular passenger might be getting  
8 ill or a particular passenger might be making  
9 threats about the safety in the airplane?

10 A. Correct. And it was clear that neither of  
11 those was the situation.

12 Q. And how was it clear, that's my question?

13 A. They said that it was a, there was a  
14 potential of an inappropriate situation in between  
15 two passengers and some sort of sexual or you know  
16 situation. It wasn't that a passenger was throwing  
17 up or feeling nauseous, it wasn't that there was  
18 violence happening, but it was just that they were  
19 not sure of the extent of the situation, but they  
20 wanted to address it more and they wanted to let us  
21 know and see if we have any input for items that  
22 they could check additionally or steps that they  
23 should act on, and if we had any additional  
24 procedures that they were unaware of.

25 Q. Okay. So they were, to your recollection,

1 when the flight attendants called Captain Shoop, it  
2 was relayed to you that she was asking for whether  
3 there were further instructions from the cockpit?

4 A. I don't believe the call was for  
5 additional steps. I believe the call was  
6 informative, but during the course of that, you  
7 know, typically end a conversation like that is, is  
8 there anything else you can think of or something  
9 general of that nature. It wasn't, she wasn't  
10 looking for direct guidance, or I don't know if it's  
11 a he or she that called up. But the flight  
12 attendant was not looking for direct step by step  
13 guidance from us. They were saying, hey, these are  
14 the things we are going to accomplish, is there  
15 anything else you can think of?

16 Q. And part of the information that was  
17 provided led you to understand that there was  
18 something involving inappropriateness, is that  
19 right?

20 A. Yes.

21 Q. And something involving sexual conduct?

22 A. Yes.

23 Q. Okay. How about descriptions of the  
24 passengers. You mentioned that there was a  
25 description of an older gentleman with a younger

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1 child, right?

2 A. Yes.

3 Q. How about color of skin?

4 A. No, not initially, I don't remember that  
5 being brought up at all.

6 Q. Do you remember it being brought up later?

7 A. At some point in the flight they gave us a  
8 description so we could have a description of the  
9 passengers, because we didn't have their names so we  
10 tried to gather as much information as possible, but  
11 yes, it wasn't used as a descriptive term when the  
12 conversation began at all.

13 Q. How about seat numbers?

14 A. I believe, I don't know, I am, I wasn't on  
15 the phone call, so I don't remember specifics and  
16 that's not typically something we would share with  
17 each other in the cockpit, because it doesn't really  
18 matter to us.

19 Q. And along those lines, let me ask, you  
20 don't have anything in the cockpit that you could  
21 refer to that would connect a passenger name with a  
22 seat?

23 A. No, we don't in the cockpit at all. I  
24 have no idea what the flight attendants have or  
25 don't have access to, but we have, with the

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1 exception of passengers that need assistant or have  
2 emotional support animals, we get those passengers  
3 listed as far as their seat, so we can assist them  
4 in the event of an emergency or just in the event we  
5 get there.

6 Q. How do you get those types of names, is  
7 that through an ACARS message?

8 A. No, it's a printout we receive, we call it  
9 the Specials Report. So it tells us that's the name  
10 of the report that we request any special services.  
11 It includes things as general as if we need ice or  
12 wheelchairs or anything like that. So they print  
13 off the Specials Report when we leave.

14 Q. And that comes in the packet that you get  
15 from the station?

16 A. No, it comes later on because they have to  
17 board all the passengers before they can print it,  
18 to see if the passengers actually made it on the  
19 flight.

20 Q. I see. So it's actually printed after  
21 everybody is seated?

22 A. Yes, it's printed by the gate agent at the  
23 station. And I know they give one to us, I don't  
24 know if they give one to the flight attendants or  
25 not. And they give it to us, right, they come in

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1 and collect a couple of pieces of paper from us and  
2 deliver a couple of pieces of paper to us right  
3 before we leave.

4 Q. Now, with this flight 2067, do you  
5 remember whether or not there was a Specials report  
6 given to you?

7 A. I don't remember, it's delivered probably  
8 75 percent of the time, 80 percent of the time.

9 Q. Just so I understand your testimony,  
10 though, if their names, if a particular passenger is  
11 involved in the flight attendant's call, were not  
12 included on the specials report, you would not have  
13 any referenced material that would have told you  
14 their names, right?

15 A. Correct.

16 Q. Okay. And I believe you said you weren't  
17 sure -- strike that. Do you know which flight  
18 attendant initially called the cockpit?

19 A. I don't.

20 Q. Okay. After you and Captain Shoop  
21 discussed the contents of that first call, what  
22 happened next?

23 A. I mean, through the course of this entire  
24 action obviously we are going to be flying the  
25 aircraft.

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1 Q. Yes.

2 A. So my primary duty, and crews especially  
3 was to work the radios and communicate with ATC and  
4 Captain Shoop's primary duty was to fly the  
5 aircraft. So I know that he and I discussed it,  
6 just if there is anything we can talk about, I  
7 remember the initial, after the initial call from  
8 the flight attendants, he and I discussed it very  
9 briefly. It was just, hey, you know, if this  
10 becomes more of an issue we need to look into  
11 additional steps, is there anything you can think of  
12 that we should look at. And we both maybe did a  
13 couple of searches in our manuals to see if there is  
14 anything that addressed it, kind of, I think Captain  
15 Shoop and I were discussing things in a way that he  
16 would allow him to formulate kind of a checklist or  
17 a plan, say, hey, if this we do that. And that's  
18 kind of how we run our lives is, we take as much  
19 information in and if it reaches a certain  
20 threshold, then we act upon it accordingly, if not  
21 we continue to the next option and stuff. So I  
22 think he and I were just discussing things so that  
23 he could formulate that work flow.

24 Q. And when you say you were looking at  
25 things, that would have be the FLM Part 1?



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1 A. Correct.

2 Q. And did each of you have that on your  
3 phones?

4 A. On our Ipads, when we are on the aircraft.

5 Q. I see, on a tablet?

6 A. Yes, it's our electronic flight bag is  
7 managed through a controlled software that's on our  
8 Ipads.

9 Q. So when you were looking for things then,  
10 were you looking specifically at the threat levels?

11 A. I do know that we looked at the threat  
12 levels, I looked at the threat levels, I am not sure  
13 what he looked at. I looked at the threat levels to  
14 see what they meant and kind of what the designators  
15 are for each one. And there is many. And I also  
16 did use a cursory search for anything related to  
17 passenger safety or anything of that nature, just to  
18 see if I could find anything, but I couldn't come up  
19 with anything in the time. And, you know, as  
20 typically is the case when we are flying the  
21 aircraft, we have to divvy up those responsibilities  
22 and their level of threat and level of importance.  
23 So I did that for a while until I got busy flying  
24 the aircraft again and then they hadn't called back.  
25 So initially I just I assumed that there was not

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1 anything additional going on, so we kind of just  
2 flew for a while.

3 Q. I assume the aircraft was on auto pilot at  
4 this point?

5 A. Generally at that point, yes.

6 Q. Okay. And Captain Shoop was the pilot  
7 flying, you were the pilot monitoring?

8 A. Correct.

9 Q. So when you say you had to get back to  
10 flying the airplane, that would be more of the  
11 monitoring?

12 A. Yes, monitoring, and as the pilot  
13 monitoring it's typically my job to input any routes  
14 and if we get any reroutes from ATC, and then the  
15 Captain will, or the pilot flying will then verify  
16 them. It requires two steps of verification for any  
17 of those things, yes.

18 Q. One of things I have asked for in this  
19 case and have not received is a log of the actual  
20 flight route flown. Do you remember on this  
21 particular date whether there was any unusual or  
22 different routing from the typical routing of this  
23 flight?

24 A. This was one of my first few times going  
25 to Raleigh. I probably had only been there three or

1 four times total. So unusual routing would be  
2 really hard for me to define at that point. I  
3 didn't feel that it was excessive, it wasn't a very  
4 far north routing or very far south routing that I  
5 remember. I don't remember any significant weather,  
6 as far as thunderstorms or things we had to avoid  
7 from that standpoint. It was good weather for the  
8 course of the flight.

9 Q. Let's take look at what you were looking  
10 at then, could you bring up threat level one,  
11 please?

12 A. It's not the easiest to read on the phone,  
13 sorry.

14 Q. That's all right. Take your time.

15 A. Okay.

16 Q. All right. So tell me what is threat  
17 level one?

18 A. [REDACTED]

19 Q. [REDACTED]

20 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19

MR. MAYE: Can I just interject. So this

20

whole area, can you kind of highlight this area

21

because we will have to identify this as SSI,

22

this whole area, sensitive security

23

information.

24

MR. MCKAY: From where I asked about

25

threat level.



1

Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23

[REDACTED]

[REDACTED]

[REDACTED]



1

3

Q. Without getting too far afield to things that go beyond what we are here for today. Did you determine that anything in what the flight attendant told Captain Shoop fit this category of threat level one?

8

A. The first call, no. I think we identified it as a potential situation, but not, it's not a threat yet, it hasn't been a threat directly at us or a crew member or the flight. But in that conversation that Captain Shoop and I had, we discussed kind of what would cause it in our interpretation to move into this.

15

Q. And I note that you used a word that the flight attendant also used which was situation. Is there a definition in any of your materials or your training at Frontier that you would be able to tell the jury defines a situation?

20

MR. MAYE: Object to form.

21

A. I mean I think, there is a Webster definition of a situation, I don't know how to interpret that question.

24

Q. Okay.

25

A. I don't know how you are implying that

1 question and I don't know how I should answer.

2 Q. I try not to imply, I just ask questions.  
3 What I am asking, in your mind, what is a situation?

4 A. A situation in my interpretation would be,  
5 a situation is something that is a feeling or a  
6 result of multiple inputs. It could be, you know,  
7 as you walk down the hallway, is the floor slippery,  
8 that's a situation that you have to address.

9 Q. Sure.

10 A. And it's interpreted, I think is the best  
11 method.

12 Q. Okay, well, let's talk about these  
13 multiple?

14 A. I am sorry, it uses decision making, it  
15 allows us, I think the FAA describes situation  
16 awareness and situational training and stuff that  
17 emphasizes the pilot and crews' ability to take in  
18 the information and make the best possible course of  
19 action from there.

20 Q. Okay. And what you have described as an  
21 FAA definition, that's for a pilot flying an  
22 airplane?

23 A. Yes.

24 Q. But to analogize what we are talking about  
25 here, it's points of information that need to be

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1 interpreted in order to make a decision?

2 A. Correct.

3 Q. So the points of information you have  
4 received at this point are that an older gentleman  
5 is traveling with a younger child. And that  
6 something, you don't know what, is felt to have been  
7 inappropriate. And something, you don't know any  
8 details of was felt by somebody to fall in the  
9 category of sexual, is that a fair statement so far?

10 A. I believe that's correct up to the point  
11 of the first communication we had with the flight  
12 attendant.

13 Q. All right. So undefined inappropriate and  
14 undefined sexual all combined with older gentleman  
15 flying with younger gentleman?

16 A. Correct.

17 Q. So that's sort of the universal data point  
18 that you had at that point?

19 A. Correct.

20 Q. So you looked at threat level one and  
21 determined that they didn't, those data points  
22 didn't lead to any conclusion under threat level  
23 one?

24 A. Correct.

25 Q. Now, what is threat level two?



\_\_\_\_\_

\_\_\_\_\_

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**ESQUIRE**  
DEPOSITION SOLUTIONS

\_\_\_\_\_

\_\_\_\_\_



1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]



[REDACTED]

4 MR. MAYE: Can I just, I am sorry, just to  
5 be clear, can we go off the record for a  
6 second, just so we are clear on what we are  
7 going to do with this information.

8 VIDEOGRAPHER: The time is approximately  
9 11:09 a.m. we are going off the record.

10 (Whereupon, an off-the-record  
11 discussion was held.)

12 The time is approximately 11:29 a.m. we  
13 are going back on the record.

[REDACTED]



1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 (Whereupon, the record was read

22 by the reporter.)

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

8 Q. And let me just ask you this, in general,  
9 did any of the information that you received from  
10 the flight attendants cause you to make a decision  
11 that there was a threat level two?

12 A. At what point?

13 Q. Okay. Right now we are at the point where  
14 there has been an initial call from a crew member.

15 A. At this point, no.

16 Q. Okay. I can't remember if I asked you, do  
17 you know who the crew member was that called?

18 A. I don't remember, I said I can't remember.

19 Q. Thank you. As you can see I have a very  
20 short memory span. With respect to the actions in  
21 the cockpit, what happened next?

22 A. So we went through this, the initial phone  
23 call from the cabin, we discussed our actions and  
24 kind of what our game plan, to us, what would  
25 indicate an increasing level of threat, and what

1 courses of action we would seem as being most  
2 appropriate as we continue the flight.

3 Q. All right. Did there come a time when you  
4 received more information from any member of the  
5 cabin crew?

6 A. Yes.

7 Q. And what happened?

8 A. I believe it was initially, it's always  
9 going to be initiated by a phone call. So they  
10 called us initially and at this point I believe one  
11 or both of us needed to go to the bathroom. So  
12 that's how it initiated was, do you guys need a  
13 break, how are you doing. And the, I believe the  
14 cabin, the captain went first.

15 Q. To take a break?

16 A. To take a break.

17 Q. All right.

18 A. And the process is that is securing the  
19 front galley and allowing one of the flight  
20 attendants to come in. And after we verify it's all  
21 secure, and once they are inside then one of us can  
22 leave and only one of us can leave at a time.

23 Q. Does the other still have on oxygen?

24 A. Yes, depending on your altitude but at  
25 cruise, yes.



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1 Q. So a flight attendant came in, you went on  
2 oxygen, Captain Shoop went out to use the rest room?

3 A. Correct.

4 Q. Do you remember which flight attendant it  
5 was?

6 A. It was a female flight attendant,  
7 initially, I don't remember who.

8 Q. In your experience, would it have been one  
9 of the designated positions who came in, for  
10 instance the A?

11 A. Often times it's either, I think it's the  
12 A and C that are in the front. Often times it is  
13 the A, but that's not always the case.

14 Q. Okay.

15 A. And I don't know, I know that after  
16 Captain Shoop went to the bathroom, he came back in,  
17 we transferred our controls of the aircraft again,  
18 and I went out to go to the bathroom. After I came  
19 back in, I know that we sat down and the flight  
20 attendant stayed and we had continued to have a  
21 conversation. The captain and her had a  
22 conversation about what was going on.

23 Q. So you weren't a participant in that  
24 conversation?

25 A. I was a bystander, as if anyone was in

1 this room. You know, and knew what was going on and  
2 was kind of formulating my own thoughts, but...

3 Q. Well, tell me what you heard?

4 A. To the extent of my interactions for that  
5 conversation would just be to help clarify the  
6 stories as they were being so told between the two  
7 people.

8 Q. Okay. Let's go through those stories  
9 then, what was the flight attendant saying to the  
10 captain?

11 A. So at this point they gave us an update  
12 on.

13 Q. I am sorry, you have to be very specific.  
14 You are saying they now, do you mean the female  
15 flight attendant?

16 A. Yes.

17 Q. Okay.

18 A. This particular situation was, there was  
19 only one flight attendant in the cockpit with us at  
20 the time.

21 Q. And now, I am going to stop you again and  
22 ask you not to summarize what was said, but instead  
23 to the best of your memory to say what was said?

24 A. What I remember is that there is, to  
25 clarify, I guess, there is two or three

1 conversations that we are going to talk about in the  
2 next five minutes, I guess, but part of that is, my  
3 order of operations might be slightly off, but what  
4 I remember is that the next pieces of information  
5 that I remember learning was that the passengers  
6 that were in the back that they called us about, had  
7 also been passengers that a different flight  
8 attendant had resat earlier in the flight prior to  
9 the flight. They described the interactions of the  
10 two of them at that time and these were separate  
11 flight attendants. So at this point I am in the  
12 cockpit getting this information from a particular  
13 female flight attendant about what another female  
14 flight attendant saw, so we are definitely playing  
15 telephone.

16 Q. Got it. Before we get too far. A  
17 different flight attendant, who is also female, you  
18 understood had reseated the passengers from their  
19 original two seats to a different two seats prior to  
20 the flight taking off, correct?

21 A. Correct.

22 Q. Okay. And now you have a different female  
23 flight attendant in the cockpit after each of you  
24 has used the restroom and she is relating to you  
25 what the first female flight attendant told her, is

1 that right?

2 A. She was giving an update on the situation.  
3 Part of that update was additional information  
4 that's new to me.

5 Q. Uh-huh.

6 A. Which was that the same two passengers had  
7 been resat earlier in the flight.

8 Q. Did she say why?

9 A. I don't remember from then. I know that  
10 it was a young child, an older gentleman.  
11 Generally, that's because the child is too young or  
12 one of them was unable to perform the duties that  
13 are required in, I believe, they were sitting in the  
14 exit row.

15 Q. But that's just a general understanding,  
16 and not specifically what was told to you?

17 A. Yes, from, I don't remember that now.

18 Q. Okay. How about the descriptions of the  
19 passengers, was that then added to in this  
20 discussion?

21 A. I don't believe at this point I know  
22 anything additional. I do learn this, that  
23 information relatively soon, but at the point of  
24 this conversation I don't believe I have learned  
25 that yet.

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1 Q. And when you say that, just so we are  
2 clear for the record, you mean?

3 A. More descriptions of these individuals, of  
4 who they were, where they were and I guess what they  
5 look like.

6 Q. Yes, and what they look like being that  
7 one is African American and one is Caucasian?

8 A. Correct.

9 Q. Okay.

10 A. At this point I don't believe I knew that  
11 yet. So we are discussing with the flight attendant  
12 kind of what their procedures are, if they have any  
13 procedure. We were discussing with the single  
14 flight attendant what their procedures are and what  
15 our procedures are and if we have anything  
16 additional. I believe it was, at some point up to  
17 now we have sent off our first information up to SOC  
18 to just kind of keep them in the loop.

19 Q. This would be an ACARS message?

20 A. I believe so, yes.

21 Q. I am going to mark them in a second. But  
22 if you need to refer to them now, that would be  
23 fine?

24 A. I am happy to look it up.

25 Q. Let's go ahead and mark it as Exhibit 2,

1 please.

2 (Exhibit 2 was marked for  
3 identification.)

4 The court reporter is showing you  
5 what has been marked as Exhibit 2. And I will  
6 represent to you that these were produced to me with  
7 the representation that they are printouts of ACARS  
8 messages back and forth from your flight. If there  
9 is any reason you dispute that, be sure to let me  
10 know?

11 A. All right. It looks appropriate, I have  
12 never seen them in this format, they print them on  
13 receipt paper to us.

14 Q. All right. There are ten that are visible  
15 and there is another three that have been redacted.

16 A. They look like performance data.

17 Q. Okay. And from my understanding of the  
18 documents, it reads from back to front, so that ten  
19 would be the earliest, is that also your  
20 understanding?

21 A. Correct.

22 Q. Okay. So number ten says there seems to  
23 be inappropriate touching between an older male and  
24 a younger male, 12 year old original seats 13D, 13E,  
25 flight attendants are uncomfortable, do you see

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1 that?

2 A. Correct.

3 Q. Is that what you wrote?

4 A. I don't believe I wrote this, but I can't  
5 remember.

6 Q. All right. I will tell you that Captain  
7 Shoop looked at it and said that the end part there,  
8 where it says flight attendants are uncomfortable  
9 and there is a letter R for the word ARE, he  
10 believes he wouldn't have done that. He says a  
11 younger man would have done that. Do you agree with  
12 that?

13 A. It's possible, it's difficult to type on  
14 that thing and we are limited to the number of  
15 characters. So I try to abbreviate when possible,  
16 but I don't remember.

17 Q. So any way, you would agree with me that  
18 is at 1:47; zulu time 3:29?

19 A. Correct.

20 Q. So that would be the time in flight, if we  
21 were to look at the flight in universal coordinated  
22 time, that somebody from the cockpit, either you or  
23 Captain Shoop sent an ACARS message with this  
24 information?

25 A. Correct.

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1 Q. So at that point you would have already  
2 had the information that they have been received?

3 A. Correct.

4 Q. So you think this was during the in person  
5 visit from the female flight attendant?

6 A. It was, it was right around that time.  
7 And so I am guessing it was either during or just  
8 after the first flight attendant. I am sure we will  
9 move back to it, but other flight attendants ended  
10 coming in to the cockpit so the captain and I could  
11 hear multiple versions of their story to try to make  
12 sure we are getting the most correct information.  
13 So I don't know at what point we sent it, but it was  
14 definitely after we figured out that they been  
15 moved.

16 Q. Now. Item number nine is also at 1:47  
17 zulu. So within the same minute, somebody sent to  
18 dispatch the message, we need some inputs from you  
19 and SOC, correct?

20 A. Correct.

21 Q. And SOC again is operations?

22 A. Yes.

23 Q. All right. So dispatch and operations are  
24 24 different things?

25 A. Yes, dispatch is a group of people that,



1 you know, we think of them as one unit, but they  
2 oversee flights that are going in an in flight. SOC  
3 is kind of the management hierarchy of that group.  
4 So they are all within the same office and  
5 realistically within the same room most of the time,  
6 but different duties.

7 Q. Okay. And so what you are saying is that  
8 you have this situation, as you described it,  
9 involving quote-unquote inappropriate touching  
10 between an older male and younger male, 12 years  
11 old. And you have provided that information and  
12 asked for input from dispatch and SOC, correct?

13 A. Correct.

14 Q. Okay. What happens next then, as you  
15 remember, not necessarily with respect to the ACARS,  
16 just what you remember, in general?

17 A. So like I mentioned a second ago, the  
18 first flight attendant left the cockpit, another  
19 flight attendant came in.

20 Q. May I ask, was that a simultaneous event  
21 that, in other words that they basically passed each  
22 other in the doorway or was there a lag of time  
23 between one leaving and one coming back in?

24 A. It wasn't five or ten minutes, it was  
25 seconds of interchange. Typically the first flight

1 attendant will come in and then the second flight  
2 attendant goes out, because you can't open the door  
3 from the outside. So they both have to be in there  
4 for the same time, but I don't believe they stayed  
5 in the cockpit together.

6 Q. Let me stop and get some just identifying  
7 information. The first flight attendant who came  
8 in, the female, did you understand her to be the one  
9 who had made the initial call into the cockpit?

10 A. I don't know, and I would not remember her  
11 voice because I didn't listen to it, so I don't  
12 know.

13 Q. But then in your recollection after you  
14 and she and the captain had a discussion about  
15 information needed, then she left, correct so far?

16 A. Correct.

17 Q. And then did a female or male flight  
18 attendant come in after her?

19 MR. MAYE: Object to form.

20 MR. MCKAY: Aren't those the only two  
21 options?

22 Q. What was the gender of the flight  
23 attendant who entered the cockpit after the female  
24 flight attendant departed?

25 A. There was two more flight attendants that

1 entered the cockpit, not at the same time initially,  
2 but I believe the next flight attendant was a  
3 female, and then it was the male or could have been  
4 the male and then the female. I don't remember what  
5 order they came in.

6 Q. Okay. But the female was different than  
7 the one that had just left?

8 A. Correct.

9 Q. Okay. So a male and a female come in, and  
10 you don't remember whether they came in  
11 simultaneously?

12 A. They came in at different times, I am not  
13 sure which one was there first as the third person  
14 in the cockpit for maybe a series of minutes. And  
15 then the flight attendants that were behind the door  
16 called us up and said that one of the other flight  
17 attendants want to come in and talk, as well. That  
18 flight attendant came in so there was two flight  
19 attendants and us two in the cockpit at the same  
20 time, and that point it was one male, one female  
21 attendant and then us two in the cockpit.

22 Q. Was that unusual for flight attendants to  
23 all be at the front of the aircraft?

24 A. No, we try to, we try to minimize the  
25 amount of telephone that we have to play, and we

1 have to play some. So especially when there was two  
2 people that had observed situations, we would want  
3 to hear it from both of them. So a time is  
4 typically of the essence and most of the stuff that  
5 we do in the aircraft, so we try to get that  
6 information quickly. You know, it's, in this  
7 situation it was not uncommon because there was  
8 already one person in the cockpit. If no one was in  
9 the cockpit if we hadn't gone to the bathroom right  
10 then, they probably would have done this on the  
11 phone because two people can be on the phone at the  
12 same time, but that wasn't the case, they were  
13 already up in the front to guard the cockpit door.  
14 So leaving two on that side to guard two of us  
15 inside was fine.

16 Q. Okay. And I apologize for on this, but  
17 like you in this situation, my job is to get  
18 specific and accurate information. So I am going to  
19 backtrack a little bit. You had the phone call that  
20 you testified about and then a, from a female flight  
21 attendant, from a flight attendant, I am sorry. And  
22 then next is a flight attendant entering the cockpit  
23 while you and the captain use the bathroom at  
24 different times?

25 A. Sure.

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1 Q. And then she remained, and there was a  
2 discussion. And this discussion involved both her  
3 providing information and also your discussion about  
4 the threat level issues, right or the FLM issues?

5 A. It wasn't specifically about the FLM  
6 issues, it was just what procedures does she have,  
7 it wasn't necessarily threat levels it was, they  
8 have many more procedures relating to passengers  
9 than we do.

10 Q. Sure. That's their job.

11 A. That's their job. So we just asked if  
12 they had anything in particular that they needed to  
13 address, and then we addressed anything that we had  
14 which we couldn't find anything. And just we were  
15 working together collaboratively to try to come up  
16 with a series of events that would be either that  
17 would have caused it to escalate, if it was to go  
18 down that path, and if it didn't, we could continue  
19 as planned and not make any immediate actions.

20 Q. Okay. So if I understand this correctly,  
21 and based on what you have testified to earlier,  
22 this discussion about where this situation might go  
23 has to do with not only flight attendants protocols,  
24 but also the protocols in your FLM, fair statement?

25 A. Yes.

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1 Q. Okay. And from your standpoint, since you  
2 don't know their protocols, you can talk about what  
3 is in the FLM, right?

4 A. Correct.

5 Q. So the discussion on the pilot side was,  
6 well, unless there is physical contact it really  
7 doesn't come into our sphere of what is in the FLM,  
8 right?

9 A. Correct.

10 Q. Okay. So after that discussion then, the  
11 female flight attendant leaves and then two more  
12 flight attendants come in?

13 A. Yes, not at the same time, there was a  
14 point at which the female, I don't know if it was  
15 another female. The female left, one flight  
16 attendant came in, two minutes later the other one  
17 came in.

18 Q. Okay. First one in is female?

19 A. I don't remember.

20 Q. Second one in?

21 A. After they both were in, there was a male  
22 and female. I don't know which one came first or  
23 second.

24 Q. So it might have been the male that came  
25 in second?

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1 A. I believe it was.

2 Q. Okay.

3 A. But I am not positive.

4 Q. What was said at that point, that you  
5 remember?

6 A. So we had identified that, you know, we  
7 had at that point, the captain and I had received  
8 information of what had happened, when they got  
9 removed or reseated prior to the flight.

10 Q. I have to stop you there because that's  
11 the first time you have mentioned what had happened.  
12 What did you understand had happened when they were  
13 reseated that was of significance to this  
14 discussion?

15 A. The flight attendant said that as she  
16 approached one of the, the child, that the child  
17 seemed timid or meek and kind of shied away from the  
18 situation, just seemed to be in a situation where  
19 there was an overbearing presence. You know, didn't  
20 have any direct interactions and just kind of said  
21 hey, how old are you, or I don't know what she  
22 asked, but she just kind of goes up and tries to  
23 make conversation. And just said that it was, that  
24 the situation felt extremely controlled and that  
25 there was, you know, control being put on one person

1 by another person is kind of where she thought, but  
2 they got up and they communicated fine, and went to  
3 the other seat and it was fine.

4 Q. Let me ask you this. Did she say the  
5 older gentleman had answered the age question for  
6 the younger child?

7 A. I don't remember.

8 Q. Okay. Did she --

9 A. Based, I don't know, I don't know, I would  
10 just say I assume, but I don't know, I wasn't there  
11 so I can't say that.

12 Q. You assume that was what she was relaying  
13 to you?

14 A. The way she implied the situation was that  
15 the child was not answering, was very kind of  
16 reserved and either was, yes, and it was very  
17 reserved, I guess, in that situation, just kind of  
18 looking for permission or acceptance or, you know,  
19 something to kind of go through and yes, that's  
20 where I was, the conversation I was getting from  
21 her, that's kind of where it would be at, I guess.

22 Q. And she was the one that had resealed  
23 them?

24 A. I believe so.

25 Q. Did she say anything more that was unusual



1 as she reseated them?

2 A. At the time of reseating, no.

3 Q. What she relays to you is this overbearing  
4 situation, but I don't hear anything there about  
5 inappropriate touching. So how did that get into  
6 your ACARS message?

7 A. Because the situation that they called us  
8 up for, 45 minutes later was that there was  
9 inappropriate touching or interactions between the  
10 two of them.

11 Q. So what did you understand to be  
12 inappropriate about the touching?

13 A. That the, from what I was told or what I  
14 remember, that the child was sitting and the adult  
15 was the male was leaning over and kind of on top of  
16 the person, the child, and had their hand down in  
17 between their legs.

18 Q. That's what you understood from the first  
19 message 45 minutes into the flight?

20 A. Correct. And at that point, what I  
21 remember is that one of the flight attendants  
22 attempted to wake the adult up.

23 Q. I am sorry, the adult was asleep?

24 A. I don't know. They tried to get the  
25 adult's attention and I don't know how they did it,

1 I wasn't there. They were able to get the attention  
2 of the adult and the adult said, oh, okay, no  
3 problem and kind of stood up is what I gathered, or  
4 sat up. And then we continued and they said, hey,  
5 that was when they had called us was after that  
6 interaction is when they called us after the 45  
7 minute mark.

8 Q. Okay. So the first call that you  
9 received. And this is all what you got from Captain  
10 Shoop because the first call you didn't listen to?

11 A. Correct.

12 Q. So the first call 45 minutes into the  
13 flight, according to Captain Shoop's relaying the  
14 information to you, there had been a situation where  
15 they saw the adult, as you put it, on top of the  
16 child with his hand between the child's legs. That  
17 somehow they had gotten the adult's attention, they  
18 don't know whether he was -- you don't know whether  
19 he was asleep or not. He said something like, oh,  
20 okay, had stood up?

21 A. No, just sat up.

22 Q. Sat up. Okay, and all that information...

23 A. Put himself back to his position in his  
24 seat, and then they continued on.

25 Q. Okay. They continued on, meaning the

1 flight continued and?

2 A. Yes, the flight attendants continued  
3 monitoring.

4 Q. Everything was fine?

5 A. The flight attendants, you know, are on  
6 the look out for, you know, passengers get sick or  
7 anything. So they were always just monitoring  
8 passengers.

9 Q. Okay. But all of this information about  
10 the hand between the legs being on top of the child  
11 and possibly being asleep, and saying something like  
12 oh, okay, and sitting up straight, all of that was  
13 part of the first call that Captain Shoop relayed to  
14 you?

15 A. Not all of that detail was there. I mean  
16 it wasn't until, it wasn't until the flight  
17 attendant started approaching the cockpit and we  
18 were able to talk to them that I was able to get  
19 specifics and the details.

20 Q. What specifics in what I just said did you  
21 receive after the 45 minute call?

22 A. So at the 45 minute call I believe that  
23 they, the flight attendants told us at least that it  
24 was inappropriate. I don't know what specifics  
25 there was. But I know then after the flight

1 attendants came into the cockpit is when they  
2 described to us the details of what had happened or  
3 transpired, and the events up to that point.

4 Q. Okay. As you sit here today, you don't  
5 know whether the hand that was supposedly between  
6 the legs was something that occurred prior to the 45  
7 minute call or between the 45 minute call and the  
8 in-person visit to the cockpit?

9 A. I don't know if the first time that was  
10 reported to us was prior to or after the 45 minute  
11 call or just after that, later on in the flight,  
12 when all, when there was two flight attendants in  
13 the cockpit with us, the consensus of the story that  
14 the captain and I tried to come up with the most  
15 correct source of it. So taking the things that  
16 were consistent between each of them. At that point  
17 it then led us to a point where the adult male had  
18 been interacted with twice or asked twice to kind of  
19 correct his inappropriate situation with the child.

20 Q. Okay. Let me stop you there?

21 A. Can I go to the bathroom?

22 Q. Sure. I thought you said can I go back  
23 now. Yes, you can certainly go to the bathroom.  
24 And we will go off the record.

25 VIDEOGRAPHER: The time is approximately

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1 12:01 p.m., we are going off the record.

2 (Whereupon, an off the record discussion  
3 was held.)

4 The time is approximately 12:14 p.m.  
5 we are going back on the record.

6 Q. Okay. Before we took a break you had  
7 mentioned different flight attendants coming in and  
8 out, and I would like to have marked as Exhibit, I  
9 think this is 3 or 2. Just so you know I am  
10 probably going to refer to 2 again in a minute, so  
11 don't push it too far away.

12 (Exhibit 3 was marked for  
13 identification.)

14 Looking at Number 3, these are some  
15 photographs from employee records that had been  
16 produced to us by your company. And I am wondering  
17 if you are able to identify the first flight  
18 attendant who entered the cockpit from those?

19 A. It was not Scott.

20 Q. Okay.

21 A. But...

22 Q. Would it help if I told you their  
23 positions?

24 A. Um, it doesn't.

25 Q. It doesn't make a difference?

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1 A. Yes, I don't think.

2 Q. Okay.

3 A. I didn't know which seat the A and the D  
4 sit in, it doesn't make a difference.

5 Q. Okay.

6 A. I want to say it was Anna, she looks the  
7 most familiar, but I don't know.

8 Q. Okay. All right. So you said that by the  
9 time of the, well, at some point, let me put it that  
10 way. At some point you determined that the data  
11 points that you had of information included a fact  
12 that the adult had been spoken to twice about his  
13 conduct, is that a fair statement?

14 A. Correct.

15 Q. Okay. And that was information that was  
16 relayed to you by the flight attendants who came  
17 into the cockpit?

18 A. Yes.

19 Q. And at this point had you and Captain  
20 Shoop given any instructions to the flight  
21 attendants?

22 A. Specific instructions as far as moving  
23 additional people, no. We had discussed with them  
24 about, you know, for them to tell us if anything  
25 else happened, but it was just more I think at what

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1 point where are we at?

2 Q. Yes.

3 A. At some point.

4 Q. Yes, we are at the point where the first  
5 flight attendant to enter the cockpit is standing in  
6 the cockpit. So let's take it from that point?

7 A. Yes.

8 Q. And you have told them to let you know if  
9 there is additional information?

10 MR. MAYE: I am sorry, at the 45 minute  
11 mark?

12 MR. MCKAY: Forty-five minute mark is a  
13 call so this is later.

14 A. Later. So when the first flight attendant  
15 comes in, no, we didn't give them any instructions  
16 at that point, other than collection, no new  
17 instructions, just collect more information, keep us  
18 informed. My interpretation is that's probably  
19 about when we sent the messages and stuff.

20 Q. Okay. But at that point the message does  
21 indicate that they had been moved so, and with  
22 specific seat numbers. So at that point the first  
23 flight attendant had told you that?

24 A. Yes.

25 Q. Okay. So had you had, at this point with

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1 the first flight attendant in the cockpit, was there  
2 discussion about the FLM's?

3 A. Yes.

4 Q. Okay. And the flight attendant was in on  
5 those discussions?

6 A. Yes.

7 Q. Okay. So then, that flight attendant  
8 leaves and two more flight attendants come in,  
9 correct?

10 A. Correct.

11 Q. But at different times, perhaps?

12 A. Yes.

13 Q. And that's a yes?

14 A. Yes.

15 Q. Okay. And was the, and the second one  
16 would have been Mr. Warren?

17 A. Correct.

18 Q. Okay and he came in after the other female  
19 flight attendant?

20 A. Um I believe so, I am not positive on the  
21 order, but I think he was the last one in.

22 Q. Okay. And he is the one, is he the one  
23 that said that he had seen the hand between the  
24 legs?

25 A. He is one of them, one of the other flight



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1 attendants had said that to me as well.

2 Q. A female?

3 A. Yes, one of the female flight attendants  
4 had said that as well, yes.

5 Q. Okay. And that was after the first flight  
6 attendant left?

7 A. Correct.

8 Q. Okay. And who was it that told you that  
9 the adult had by this point been spoken to twice?

10 A. I don't recall.

11 Q. Okay. Are you familiar with something  
12 called sky speed?

13 A. No.

14 Q. Have you ever seen that term in any  
15 company documents?

16 A. No.

17 Q. What happened then after the two flight  
18 attendants are in the cockpit providing information,  
19 was there any determination made at that point of  
20 anything with respect to the FLM?

21 A. I believe this is about the location, it  
22 was, yes, I think both the flight attendants were in  
23 the cockpit is when we made the determination that  
24 we should reseat the child and separate the  
25 situation.

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1 Q. And what was the basis for that decision?

2 A. Making sure the safety of the child was  
3 paramount to us and we were avoiding any  
4 inappropriate or potentially dangerous situations  
5 that could arise.

6 Q. Now, had you at that point received any  
7 information about who the adult and child were?

8 A. With respect to what?

9 Q. Flames?

10 A. No.

11 Q. Okay. Family relationship?

12 A. No, only that they were sitting together  
13 and they were moved once. So I would assume that  
14 they were family or traveling together.

15 Q. Could you have asked dispatch and/or SOC  
16 for at least their names?

17 A. It's possible.

18 Q. It's possible that you could have done it?

19 A. Yes, but even if we would have asked, it's  
20 not incredibly accurate, they would have had, you  
21 know, passengers move into the incorrect seats  
22 occasionally. So in the past we have done that, we  
23 have gotten incorrect information and still had to  
24 work with it through the passengers themselves.

25 Q. I see.

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1           A.     So we could have asked, sure, but it  
2 wouldn't have made a difference in our decisions.

3           Q.     Somebody could have asked the passengers  
4 themselves, couldn't they?

5           A.     Sure, we knew that they were traveling  
6 together, that they had sat together and moved  
7 together, so it was safe to say they were together  
8 in that situation.

9           Q.     Was there any attempt made to ask them why  
10 they were traveling together?

11          A.     No, I mean people travel for many reasons,  
12 and I don't think anyone asked.

13          Q.     Was there any attempt made to ask them  
14 their names?

15          A.     I don't know that, I don't know if that's  
16 a yes or no, I didn't ask them, so.

17          Q.     You didn't ask anybody to find out what  
18 their names are?

19          A.     I did not ask that, no.

20          Q.     Was there a discussion that they couldn't  
21 be related to each other?

22          A.     No.

23          Q.     Was there at this point in time, with four  
24 people in the cockpit, was there a discussion about  
25 their different races?

1           A.     There was no discussion about it. I mean  
2     I think it was used as a descriptor by somebody, but  
3     I don't know, it was not a relevant fact in our  
4     determinations of the captain and I making a  
5     decision.

6           Q.     So well one of the flight attendants you  
7     are saying said the older man is white and the  
8     younger child is black?

9           MR. MAYE: Object to form.

10          Q.     Is that correct?

11          A.     I don't know that they said the older man  
12     was white. I know that it was a young African  
13     American child. But I don't remember when they said  
14     anything about the adult.

15          Q.     But somehow you knew it was not an African  
16     American adult traveling with an African American  
17     child?

18          A.     Yes, I don't know how that came up, it  
19     would have been with one of the flight attendants.

20          Q.     But you never saw, right?

21          A.     No.

22          Q.     So you would have had to have been told  
23     that information by one of the flight attendants?

24          MR. MAYE: Object to form.

25          Q.     Let me ask it a different way. Since you

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1 never saw them, you could only find out their race  
2 by being told, right?

3 A. Yes.

4 Q. And the only people that would have  
5 communicated that information to you were the flight  
6 attendants?

7 A. Yes.

8 Q. Okay. Now, you, yourself, never saw the  
9 adults touch the child?

10 A. Correct.

11 Q. Okay. Who made the decision to separate  
12 the two passengers?

13 A. I think the four of us collectively had.  
14 Like I said, earlier the captain and I had discussed  
15 with the first flight attendant about what could  
16 lead us to a situation where we would want to  
17 separate them or what other outcomes we would have  
18 to the extent of landing immediately, and as all  
19 four flight attendants are in the cockpit, the  
20 amount of information and the details that we had  
21 received had led us down the track that we should  
22 separate them and make sure to diffuse the situation  
23 as best we can in the current in environment.

24 Q. So the decision was made based on new  
25 information which was A, that the adult's hand was

1 between the legs of the child, B, and that the adult  
2 had been told twice about his behavior relative to  
3 the child?

4 A. Yes.

5 Q. Okay. And at that point you say  
6 collectively you have made a decision, but the  
7 decision is ultimately the captain's decision, is it  
8 not?

9 A. Yes.

10 Q. You would agree with that?

11 A. Yes, I mean the captain and SOC share  
12 joint responsibility for the flight, but once we are  
13 in the air the captain is the one that we look to,  
14 to make that decision.

15 Q. And at this point you had asked SOC for  
16 information as soon as possible, right, in your  
17 ACARS message?

18 A. Correct.

19 Q. What did you receive back from SOC and/or  
20 dispatch after that request?

21 A. So we are on number eight?

22 Q. Okay. What does that say?

23 A. So it says, did the flight attendants  
24 witness the inappropriate touching or was it  
25 recorded by another passenger or the younger male?

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1 Q. Okay. So that's something that you  
2 received back from the ground at 1:53 zulu, correct?

3 A. Correct.

4 Q. And what would be how long after your  
5 first?

6 A. Six minutes.

7 Q. Six minutes later. They are asking if it  
8 was witnessed by flight attendants or reported by  
9 another passenger or reported by the younger male,  
10 right?

11 A. Correct.

12 Q. Okay. And at this point nobody had  
13 actually asked the younger male anything, had they?

14 A. About, I mean one of the flight attendants  
15 said she tried to ask him about his age and move  
16 him. She said she asked him that question.

17 Q. Well, that was before the flight took off?

18 A. Yes.

19 Q. But after this information about  
20 inappropriate touching, nobody had asked the child  
21 if it was inappropriate?

22 A. Correct, not at this point.

23 Q. Okay. And inappropriate, I mean just in  
24 general would mean nonconsensual, right?

25 A. Yes, or depending on the age discrepancy,

1 really it could be any kind of sexual related  
2 touching.

3 Q. Are you an expert on that?

4 A. No, not at all. I tried to avoid any of  
5 those situations.

6 Q. Okay. You would agree with me that some  
7 touching can be nonsexual, right?

8 MR. MAYE: Object to form.

9 Q. Can some touching of another person be  
10 nonsexual?

11 A. That's a personal view for both people, I  
12 don't know how to answer that question. Is there  
13 touching that I view as being nonsexual, yes, do I  
14 know other people that have the same view as me, no.

15 Q. If you and I sat together, let's say I was  
16 in the middle seat and you were in the window seat  
17 and my hand brushed up against your leg, would you  
18 consider that sexual?

19 A. Me personally, no, but my wife has  
20 definitely, and she has had situations with people.  
21 So I wouldn't say that every one has the same view  
22 of that.

23 Q. So it kind of depends on context?

24 A. Context, context is a very good  
25 definition, yes.



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1 Q. All right. And also about whether or not  
2 it's consensual?

3 A. Sure.

4 Q. Okay. Now, at this point in time when the  
5 decision is made to separate these two people, is it  
6 an accurate statement that as far as you knew,  
7 nobody had asked either the adult or the child  
8 whether the contact was nonconsensual?

9 A. Correct.

10 Q. Okay. And in fact, I think you testified  
11 that somehow you knew that the adult might have been  
12 asleep at the time?

13 MR. MAYE: Object to form.

14 A. I corrected myself and I said I don't know  
15 that he was asleep or just not paying attention, but  
16 I know that the flight attendants were able to get  
17 his attention quite easily from what I heard. So  
18 again, we are playing telephone, so I am not sure.

19 Q. If someone were asleep and their hand  
20 touched the passenger next neck to them, you would  
21 agree with me that would be a non intentional  
22 action?

23 MR. MAYE: Object to form.

24 A. I think it depends on the context, again.

25 Q. Well, if the context is that the person

1 touching another person is asleep, do you believe  
2 that that's an intentional act?

3 MR. MAYE: Object to form.

4 A. I don't know how people react to it. I  
5 mean I know that when I sleep I can sleep pretty  
6 still and I don't, you know, it depends on the  
7 situation. I don't roll around down the tarmac or  
8 the airport if I was taking a nap as a passenger, so  
9 it's.

10 Q. Do you sleep on the tarmac?

11 A. No, I meant like I have seen passengers  
12 that like lay out across, you know, underneath, you  
13 know the...

14 Q. The airplane?

15 A. No not the airplane, but in the terminal.  
16 That's the word I was looking for.

17 Q. I got you. Let's bring it within the  
18 realm of your decision making?

19 A. Sure.

20 Q. At the point where the four of you jointly  
21 made this decision, you didn't have any information  
22 as to whether the contact between the adult or I  
23 should say the alleged contact between the adult and  
24 child was consensual or not, did you?

25 MR. MAYE: Object to form.

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1 A. No, didn't have any difference to us.

2 Q. And it didn't also, you didn't also have  
3 any information about whether it was intentional or  
4 not, did you?

5 MR. MAYE: Object to form.

6 A. Correct.

7 Q. Okay. Would that have made any difference  
8 to your decision making if it was intentional or  
9 not?

10 A. I don't believe so.

11 Q. Even though the note that you testified  
12 about earlier said to disregard unintentional  
13 conduct?

14 A. You are talking about the security levels?

15 Q. The torrets and the epilepsy that you  
16 testified to?

17 A. That was specifically to medical  
18 conditions related to torrets and epilepsy. So if  
19 you are having a seizure, you are going to have a  
20 seizure, you know, there is you, your question was  
21 asking about conscious decision versus subconscious  
22 decisions. That's completely different.

23 Q. All right. So you thought it was  
24 appropriate to separate the 12 year old boy from his  
25 traveling companion?

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1 A. From whoever it was, yes.

2 Q. But didn't know who it was?

3 A. We didn't know the extent other than that  
4 they were traveling together, correct.

5 Q. You didn't know that they were father and  
6 son?

7 A. Correct.

8 Q. And you didn't take any action to try to  
9 find that out?

10 A. No.

11 Q. Okay. So in the end, you ended up  
12 separating a 12 year old boy from his father for the  
13 duration of the flight, correct?

14 A. Correct.

15 Q. And that separation was done through Mr.  
16 Scott Warren?

17 A. I wasn't there, I don't remember.

18 Q. Well you were there in the cockpit?

19 A. Yes, but I didn't see it, I don't  
20 remember.

21 Q. Well, did anybody say who was going to  
22 separate them?

23 A. In the cockpit, when the four of us were  
24 talking, I don't remember that.

25 Q. Well, did at any other time, did anybody

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1 say who was going to separate them?

2 A. No, not that I could remember.

3 Q. But you came to understand that Mr. Warren  
4 had separated them, didn't you?

5 A. After the flight, when the flight  
6 attendant said we are giving their statements and  
7 she is in situations like that, yes, but at the time  
8 I didn't understand any of that.

9 Q. So after the flight you became aware that  
10 Scott Warren had separated them?

11 A. Yes.

12 Q. Okay. Now, before we get into all the way  
13 at the end of the flight. I want to look more at  
14 these ACARS messages, because number seven, if you  
15 will take a look at that is describes as an air crew  
16 message, so that would have been from the cockpit to  
17 the ground, correct?

18 A. Correct.

19 Q. Okay. And that was at 1:55 zulu, correct?

20 A. Yes.

21 Q. And that was two minutes after the ACARS  
22 message that's asked whether anybody witnessed it,  
23 right?

24 A. Correct.

25 Q. Okay. And what did this message say?

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1 A. Number seven?

2 Q. Yes.

3 A. The flight attendants witnessed it,  
4 period. They are separated now.

5 Q. Okay. So between receiving the request  
6 for more information at 1:53 and sending a response  
7 at 1:55, you knew that the two passengers had been  
8 separated, right?

9 A. Correct.

10 Q. Okay. Do you, based on these zulu times,  
11 do you know about when, when you became aware that  
12 the two had been separated?

13 A. I am guessing plus or minus right then, I  
14 mean 1:55 zulu.

15 Q. So you think it was within those two  
16 minutes?

17 A. Yes.

18 Q. Okay. So how did you find out that they  
19 had been separated?

20 A. I think after, I don't remember specifics.  
21 My, our normal procedure would be to have the flight  
22 attendants call us and let us know how a situation  
23 is going, so that would be my guess.

24 Q. Your guess is it's one of the flight  
25 attendants called to report back the result of

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1 separating?

2 A. Yes.

3 Q. Do you know whether it was Mr. Warren or  
4 somebody else?

5 A. No.

6 Q. Were you told at that point that Mr.  
7 Warren had punched the older adult four times in the  
8 back of his head?

9 A. No.

10 Q. When did you find that out?

11 MR. MAYE: Object to form.

12 A. The first time I was made aware of that  
13 was in the last 48 hours.

14 Q. The last 48 hours of today?

15 A. Yes.

16 Q. Okay. And how were you made aware of  
17 that?

18 A. I think it was one of the other flight  
19 attendants that hasn't done their deposition yet.  
20 She and I were talking, and she had heard the rumor  
21 about that.

22 Q. Was that Ms. Nichol?

23 A. I don't know.

24 Q. Well, you know who you were talking to,  
25 don't you?

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1 MR. MAYE: I am going to object to the  
2 extent this is attorney client privilege, and  
3 this is discussion.

4 MR. MCKAY: I am sorry, don't coach him,  
5 please.

6 MR. MAYE: Hold on. I am objecting to the  
7 attorney client privilege.

8 MR. MCKAY: Good.

9 MR. MAYE: And if what he is talking is a  
10 conversation.

11 MR. MCKAY: If you are coaching him that's  
12 not allowed.

13 MR. MAYE: John.

14 MR. MCKAY: I understand attorney client  
15 privilege. The man has just testified he was  
16 speaking to a flight attendant, unless the  
17 flight attendant an attorney in the State of  
18 Nevada who is representing him, then I think  
19 you need...

20 MR. MAYE: Unless I was present.

21 A. It was yesterday at a meeting with all  
22 four of us.

23 Q. I see. Thank you. Are you aware that  
24 your company documents reference the fact that  
25 Mr. Delvecchia was punched four times in the back of



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1 his head?

2 A. No.

3 Q. Have you read any of the materials that is  
4 written in the PNR for Mr. Delvecchia?

5 A. No.

6 Q. Okay. Have you discussed any of the  
7 contents of that material with anyone?

8 A. Excluding the conversation yesterday, no.

9 Q. Okay.

10 A. And I don't think it was, I don't know if  
11 anyone has read that.

12 Q. All right. Anyone meaning anybody who was  
13 on the flight?

14 A. Yes.

15 Q. All right. Did you know that the result  
16 of the separation was that the child,  
17 Mr. Delvecchia's son, was confined to the back of  
18 the airplane bare foot for the duration of the  
19 flight?

20 A. Not at that time.

21 Q. And there was still about two hours left  
22 on the flight, wasn't there?

23 A. Yes, maybe. I can look at the time stamp  
24 here, but yes, we were not at descent yet, so  
25 probably an hour and a half or two hours, at least.

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1 Q. And you did know that he was put in the  
2 back row with an able body passenger next to him?

3 A. He was put in an empty row and an able  
4 body passenger was put in the aisle, yes.

5 Q. Was that because of your agreement in the  
6 cockpit?

7 A. I don't know if we talked specifically  
8 about that situation. I know that they said we have  
9 open seats. And from conversations I have had since  
10 this time in other situations that we have had to  
11 resolve in the aircraft, I know that's their normal  
12 procedure to put an able body passenger and kind of  
13 make sure the situation can be diffused if it was to  
14 escalate.

15 Q. On flight 2067, did you know who the able  
16 body passenger was?

17 A. No.

18 Q. Did you know whether that was person was a  
19 flight marshal?

20 A. No.

21 Q. Are you informed if there is a flight  
22 marshal on a flight as a pilot?

23 A. Yes.

24 Q. Okay. Was there a flight marshal on this  
25 flight 2067?

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1 A. I don't believe so.

2 Q. Do you know whether the able body  
3 passenger was an employee of Frontier?

4 A. I don't know.

5 Q. Okay. Did you, you said you came to  
6 understand later that Mr. Delvecchia's son was  
7 barefoot in the back row. How did you come to know  
8 that?

9 A. I heard that yesterday, as well.

10 Q. Okay. Now, did you ever go back to see  
11 with your own eyes the situation in the back of the  
12 plane?

13 A. No.

14 Q. Okay. Did you know that Mr. Delvecchia  
15 tried to get back to his son and was blocked from  
16 doing so by Mr. Warren?

17 MR. MAYE: Object to form.

18 A. I wouldn't have any knowledge of that.

19 Q. Okay. Did you speak to the police after  
20 the flight landed?

21 A. I spoke to them, yes, they didn't ask for  
22 a statement from me, I don't believe the captain  
23 either.

24 Q. Were you still aboard the plain when that  
25 happened?

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1 A. Yes.

2 Q. So did you wait to deplane until after all  
3 the passengers were off?

4 A. Myself?

5 Q. Yes.

6 A. Yes, where, I have a lot of duties after  
7 we get there to do, so yes.

8 Q. So by the time the police entered the  
9 plane and asked you questions, were there any  
10 passengers left?

11 A. I don't believe so. I mean, yes, I don't  
12 believe so.

13 Q. Did you watch the passengers deplane?

14 A. No.

15 Q. Was the cockpit door closed when that  
16 happened?

17 A. Not during, not for the duration of the  
18 deplaning. No, it's typically opened pretty  
19 quickly. I have to go out and check the aircraft,  
20 to make sure that everything is, do a post flight  
21 inspection and go back and continue finishing our  
22 tasks that we have to upfront. So the north door is  
23 typically opened at that point.

24 Q. Well, during all that time, between the  
25 time the plane landed and the time that you are back

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1 in the aircraft talking to the police, did you at  
2 any time see Mr. Delvecchia or his son?

3 A. After I came back to the aircraft.

4 Q. After doing your walk around?

5 A. Yes.

6 Q. Okay.

7 A. So I left the aircraft, went outside and  
8 came outside, takes several minutes, I believe that  
9 the child was talking to some law enforcement, but I  
10 don't remember. I think they were standing on the  
11 jet bridge, I can't remember.

12 Q. Did you hear anything that was said?

13 A. No.

14 Q. You just knew they were talking?

15 A. Yes.

16 Q. Was the father there?

17 A. I honestly didn't know what he looked  
18 like. So after seeing him here, yes, but I couldn't  
19 have described him to you back then so I wouldn't  
20 have known. I know that there was another passenger  
21 on the jet bridge, I didn't know who they were.

22 Q. Okay. I just had to be very clear because  
23 of the transcript and the possibility that what you  
24 just said might be misconstrued?

25 A. Absolutely.

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1 Q. Did you or did you not see Peter  
2 Delvecchia on the jet bridge after your walk around?

3 A. I wouldn't have known who he was at that  
4 time. I saw another passenger, so I saw the child.  
5 I saw a child that would be talking to the law  
6 enforcement, and I saw an adult on the jet bridge,  
7 as well. That was the extent of it.

8 Q. I see. And you don't know who the adult  
9 was?

10 A. I didn't know the names of either one of  
11 them.

12 Q. Did you, well, as you sit here today, we  
13 see Peter Delvecchia across the table from you, is  
14 it your testimony that's the other passenger you saw  
15 on the jet bridge?

16 A. I can't remember.

17 Q. Why do you say that it was a passenger as  
18 opposed to say either law enforcement or a Frontier  
19 employee?

20 A. Wasn't in a law enforcement or Frontier  
21 employee uniform. So it was somebody that was  
22 traveling that was not working for the company,  
23 therefore the police or law enforcement.

24 Q. Could it have been a plain clothes police  
25 officer?

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1 A. That's possible.

2 Q. Okay. So we can't restrict it to be a  
3 passenger?

4 A. Sure.

5 Q. Okay.

6 A. There was one plain clothes police  
7 officer, but when he came down the jet bridge, he  
8 had his badge on the outside of his shirt, so he  
9 knew it wasn't him.

10 Q. All right. Do you remember when it was,  
11 what police officer you spoke to?

12 A. No. It was a plain clothes officer that I  
13 believe was a metro officer that was in plain  
14 clothes, that was all I can remember.

15 Q. All right. What did you and he discuss?

16 A. He just asked what my role was, where I  
17 was seated during the flight. And he said, oh, the  
18 flight attendants are the ones that would have  
19 interacted with this, and he just went to talk with  
20 the flight attendants more.

21 Q. Did you understand what it was that he was  
22 called for?

23 A. I mean, as in many different situations  
24 that's very normal course of action is for us just  
25 to allow the law enforcement to figure out what is

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1 going on.

2 Q. But I mean law enforcement was there  
3 because you and Captain Shoop had asked for that,  
4 correct?

5 A. Correct.

6 Q. And, in fact, if you go to number six on  
7 the ACARS, it says confirm that we are set for our  
8 arrival with LEO, right?

9 A. Yes.

10 Q. Okay. And that's an air crew message at  
11 3:11 zulu, right?

12 A. Correct.

13 Q. And that was sent by either you or Captain  
14 Shoop?

15 A. Correct.

16 Q. Do you know which of you sent it?

17 A. No.

18 Q. And so at 3:11 zulu, the aircraft was  
19 still in the air, right?

20 A. Yes.

21 Q. And you are saying that you need people on  
22 the ground from Frontier to confirm that you are set  
23 for arrival with law enforcement officers, right?

24 A. Correct.

25 Q. And then it says, also is there further



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1 info on this adult dot dot, they are still  
2 separated. See that?

3 A. Yes.

4 Q. And you are still seeking information on  
5 the adult passenger, right?

6 A. Correct.

7 Q. Why?

8 A. I mean that's our normal course of action  
9 to try to continue to seek as much information as we  
10 possibly can get.

11 Q. All right. What was the response that you  
12 got three minutes later?

13 A. LEO's will meet the flight, no new  
14 information on adult.

15 Q. So even the people on the ground are  
16 saying they don't have any information on the adult  
17 passenger to you?

18 A. Correct.

19 Q. Okay. And then at 3:37 zulu, number four,  
20 sorry, number, yes, number four, description special  
21 request. At 3:37, do you know who sent that?

22 A. No.

23 Q. Okay. Let me just ask this, did it come  
24 from the cockpit or did it come from the ground?

25 A. Yes, that's a cockpit.

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1 Q. How do you know that?

2 A. The special request is what we send, this  
3 next one is what we get back.

4 Q. Okay. Down in the text portion, begins  
5 with the number 6393, could you see that?

6 A. Yes.

7 Q. What does that mean?

8 A. I have no idea.

9 Q. But it's something that you either you or  
10 Captain Shoop wrote?

11 A. No, my guess is it's a code that tells it  
12 what to respond with, because the specials request  
13 is different place, it's not like a free text box  
14 where you can only just type in text. We select  
15 different options as we go down.

16 Q. All right. Now, this is several minutes  
17 later from number five, and it says again, just  
18 confirm we will have LEO's standing by at the gate.  
19 We will deplane the adult and child last. That's  
20 something that either you or Captain Shoop wrote?

21 A. Correct.

22 Q. Do you know which of the two wrote it?

23 A. No.

24 Q. But why are you still seeking confirmation  
25 if you already received it in number five?

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1           A.     Because we are constantly getting updates.  
2     I mean we check the weather many times throughout  
3     the flight, we want to keep getting updates.

4           Q.     Well, they have already told you law  
5     enforcement officers will meet the flight, but were  
6     you concerned about the possibility that they  
7     wouldn't?

8           A.     No, that's a different person. So the air  
9     crew message is with dispatch. The special request  
10    is with gate crews, security coordinator in Las  
11    Vegas.

12          Q.     I see. So the air crew message goes to a  
13    different place than the special request message?

14          A.     Correct.

15          Q.     Okay.

16          A.     That's why it has a coded stuff, so it's,  
17    if we are communicating with dispatch, all that's  
18    not available to the ground personnel.

19          Q.     Why did you decide that the adult and  
20    child would be deplaned last?

21          A.     Well, for many different reasons, but  
22    several different reasons. We have had situations  
23    in the past, whenever there is some sort of  
24    disturbance or commotion, we try to keep the  
25    situation as diffused as possible, and just there

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1 was no violence being asked about, so we allowed the  
2 other passengers to deplane first and to allow every  
3 one to stay back and work out whatever situation we  
4 had to work out, and hopefully everything will turn  
5 out well.

6 Q. So you confirm there was no violence in  
7 the situation?

8 A. Correct.

9 Q. Okay. The next thing is item number 3, at  
10 3:43 zulu. It says up length from KLAS OPS, that  
11 would be Las Vegas Operations?

12 A. Correct.

13 Q. And there is a lot of information about  
14 wheelchairs and gates and things. And then it says  
15 copy, they will meet the flight. If there is  
16 anymore witnesses, please deplane them last, as  
17 well, so they can give statements. Do you see that?

18 A. Correct.

19 Q. And that was a request that was made by  
20 the operations personnel at McCarran Airport in Las  
21 Vegas?

22 A. Correct.

23 Q. Okay. Did you hold back any witnesses so  
24 they could give statements?

25 A. I don't know. We passed the information

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1 along to the flight attendants. Like I said, I was  
2 not, I deplaned to go do my duties, but I don't  
3 know.

4 Q. When you came back from doing your duties  
5 did you see any witnesses being held back by the  
6 flight attendants?

7 A. Like I said, I know there was at least one  
8 additional passenger that was on the jet bridge, I  
9 don't know, I believe, yes, I believe there was one  
10 other, but I don't remember who.

11 Q. Okay. Did the crew take any witness  
12 statements from any passengers?

13 A. I don't know.

14 Q. Did anybody follow up with you for  
15 Frontier after the flight?

16 A. No.

17 Q. Did you on your own give any statement to  
18 Frontier?

19 A. Excuse me, I spoke with the chief pilot in  
20 Las Vegas, Devin Hussey in Las Vegas.

21 Q. Yes.

22 A. Just to let him know that it happened and  
23 if there was any additional information, to let me  
24 know. He had made a comment that Mr. Shoop had also  
25 given information that had already submitted

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1 information regarding the flight and he shouldn't  
2 need any additional information from myself because  
3 we both were getting the same information.

4 Q. What caused you to contact Mr. Hussey to  
5 make that statement?

6 A. I mean I make it a point to. Well, his  
7 office is in our crew room, so if I get to the  
8 airport during business hours I often see him and  
9 catch up on items about what is going on, and I kind  
10 of make it a point to keep him informed of whatever  
11 information I can.

12 Q. Was this a face to face conversation or  
13 phone call?

14 A. Face to face, yes.

15 Q. And how soon after the flight was it?

16 A. Within two days, maybe, next day, I don't  
17 think it was the next day because I think we got  
18 back late, but I think it was within 24 hours.

19 Q. And it was definitely after Captain Shoop  
20 had spoken to Mr. Hussey?

21 A. Yes.

22 Q. Yes. Okay. Have you received any kind of  
23 warning, reprimand or job consequences of any type  
24 as a result of this incident on Flight 2067?

25 A. No.

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1 Q. Do you know if any other Frontier  
2 employees who were part of the crew on the flight  
3 did?

4 A. I am a unaware.

5 Q. Okay. As far as you know, has Frontier  
6 indicated to you that it believes anything improper  
7 happened on the flight?

8 A. I am not aware of their position.

9 Q. But they have not communicated anything to  
10 you of that nature that they are unhappy with how  
11 the flight?

12 A. They had not spoken to me about that, no.

13 Q. We will take a little break, five minutes?

14 VIDEOGRAPHER: The time is approximately  
15 12:53 p.m. we are going off the record.

16 (Whereupon, an off the record discussion  
17 was held.)

18 The time is approximately 12:59 p.m. we  
19 are going back on the record.

20 Q. Mr. Mullin, I have a couple of more  
21 questions. Just want to confirm a couple of things.  
22 There was the joint decision amongst all the flight  
23 attendants and pilots to separate the gentleman and  
24 the child. And then I think you said that you  
25 called back to find out if there was anything more

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1 to the situation, is that true?

2 A. I don't believe so. I believe the flight  
3 attendants called us.

4 Q. That's right, somebody called to report  
5 back to you the resolution of the situation?

6 A. Correct.

7 Q. How long after the decision was made do  
8 you think that occurred -- oh, I think you testified  
9 it was within those two minutes, wasn't it?

10 A. No that was when I was made aware of them  
11 being moved, but I believe when the two flight  
12 attendants left the cockpit, the decision had been  
13 made to move them. So at that point that could have  
14 initiated the message that said hey, they are being  
15 moved or they are moved.

16 Q. Well, it says they are already separated,  
17 doesn't it?

18 A. Yes, and there is a lot of delays in  
19 getting communication and so a lot of times, you  
20 can't beat very much in the future. But I believe  
21 the phone call that came, excuse me, the phone call  
22 that came back from the flight attendants was  
23 probably ten or 15 minutes, something like that,  
24 which whatever the time frame was, it seemed  
25 reasonable for them to put the front galley back



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1 together to all kind of go back to their stations,  
2 go discuss this with the passengers and ask them to  
3 be moved. And it all seemed logical to me.

4 Q. Did you get any further reports or did you  
5 seek any further reports after that to find out how  
6 things were going with either the child or the older  
7 gentleman?

8 A. I think as we mentioned in a couple of the  
9 ACARS, nothing had changed, there was no, whenever  
10 we had discussed or had a discussion with the flight  
11 attendants, I didn't do those phone calls, but I  
12 believe that there was information that the, to the  
13 extent of has anything changed, that kind of  
14 situation.

15 Q. So you think there were calls where that,  
16 where they were brought up?

17 A. There is typically one call every  
18 hour-ish. So it's maybe 45 minutes, depending on  
19 what is going on and how much time is remaining on  
20 the flight. I want to say there was probably two.  
21 So they probably called us once after they got it  
22 situated, and then one other is what makes sense to  
23 me.

24 Q. And nothing was brought to your attention  
25 about either the father being struck in the head or

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1 the son being unhappy back in the back of the plane?

2 A. Nothing, other than the extent that the  
3 flight attendant said that they asked the child if  
4 he wanted anything, they gave him some juice and a  
5 cup of ice, and just kind of offered to give him  
6 anything he needed to make sure that he was as  
7 comfortable as possible.

8 Q. They told you all that?

9 A. What they offered, they did tell us they  
10 gave him some juice and they offered him some snacks  
11 and he said he didn't want it.

12 Q. That's the extent of what they told you?

13 A. Yes.

14 Q. But all the part of anything he needs to  
15 be comfortable, that was your addition to it,  
16 correct?

17 A. Correct.

18 Q. Now, you have worked for Frontier since  
19 early August of 2018, correct?

20 A. Correct.

21 Q. Have you, during that period of time to  
22 the present, have you worked with any members of  
23 this flight crew on other flights?

24 A. I don't believe so, but it's very often  
25 that I will only meet one or two of the flight

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1 attendants and there could be three are four or  
2 five, so I don't know, I don't believe so.

3 Q. Well, do you know, outside of this case,  
4 do you know any of these flight attendants?

5 A. No.

6 Q. You don't interact with them socially?

7 A. No.

8 Q. And you didn't, to your recollection, you  
9 didn't work with them previously?

10 A. Correct.

11 Q. Okay. So when these people are giving you  
12 information about their observations and  
13 conclusions, these are people you have never met  
14 before?

15 A. Correct.

16 Q. Okay. Now, during this time, from  
17 August 6th of 2018 to the present, how many other  
18 times have you called or been a member of a flight  
19 crew that called for law enforcement officers to  
20 meet the flight?

21 A. I don't know a specific number. I can, I  
22 want to say two other times.

23 Q. All right. And for those two other times,  
24 what was the situation that caused law enforcement  
25 to be called?

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1           A.     Well, it wasn't for law enforcement to be  
2     called specifically, it was just to have services  
3     come and help us, both times were for medical  
4     related issues of the passengers. So it's EMT's and  
5     medical and police, and everyone would come whenever  
6     we do that.

7           Q.     So both of those were medical emergencies?

8           A.     Yes.

9           Q.     So they didn't involve any kind of threat  
10    level emergency?

11          A.     No.

12          Q.     That's all I have for now. I note for the  
13    record that there is an awful lot of discovery  
14    issues that may impact whether or not we have to  
15    have you back for a deposition. So I will adjourn  
16    for my part, Mr. Maye may have some questions.

17                               EXAMINATION

18    BY MR. MAYE:

19          Q.     How did you first learn about the flight  
20    attendants concerns regarding Peter Delvecchia and  
21    AD?

22          A.     Um, first concern was via phone call 45  
23    minutes into the flight.

24          Q.     And do you remember what was communicated  
25    regarding their concerns, the flight attendants

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1 concerns?

2 A. That there was a situation between a young  
3 male passenger and an older gentleman, that the  
4 interactions and physical touching were  
5 inappropriate from their view or maybe they wanted  
6 to keep an eye on it.

7 Q. What directives were given by you or the  
8 captain in response to this phone call?

9 MR. MCKAY: Objection. Asked and  
10 answered. Go ahead.

11 Q. Go ahead.

12 A. I am sorry. So what steps did we take or  
13 what directions?

14 Q. What directives did you give the flight  
15 attendants in response to the current concerns  
16 shared with the cockpit?

17 MR. MCKAY: Same objection.

18 A. Sorry.

19 MR. MCKAY: I just make objections for the  
20 record. Just pretend I am not saying them.

21 A. Okay, sorry.

22 Q. That's all right.

23 A. I am trying to think about it. So what  
24 directions did we give. We gave the direction to  
25 collect additional information, to be mindful of the

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1 situation, try to monitor it to the best of their  
2 abilities, and keep us informed of any additional  
3 information that they become aware of or any changes  
4 in the behavior or interactions, I guess.

5 Q. And when did you next communicate with the  
6 flight attendants regarding Mr. Delvecchia and AD?

7 MR. MCKAY: Same objection.

8 A. It was in the cockpit, after the flight  
9 attendants had offered us, we had call for a break,  
10 they came in, and after we both went to the  
11 bathroom, we had the discussion with three different  
12 flight attendants, one and then...

13 Q. Well, let's start with the first one.  
14 First flight attendant came into the cockpit. And  
15 what did she discuss with you?

16 MR. MCKAY: Same objection.

17 A. She discussed the, she told us that she  
18 was the flight attendant to ask them to be reseated  
19 out of the emergency exit row. In moving them  
20 noticed that the child acted in an abnormal fashion,  
21 kind of meek or worried or just had a concerning  
22 type of interaction with the student, with the  
23 child. And that was kind of the extent of her  
24 knowledge, firsthand knowledge. And she had  
25 described that was the same passengers that the

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1 other flight attendant had brought up to our  
2 attention later on.

3 Q. And when you testified that you believe  
4 this may have been Anna Bond?

5 MR. MCKAY: Objection, also to the form of  
6 the question, but same objection.

7 Q. That came into the cockpit first?

8 A. Yes.

9 Q. And was the information communicated by  
10 this flight attendant in the cockpit the same  
11 subject matter that was communicated in the phone  
12 call earlier?

13 A. Yes.

14 Q. And at some point that flight attendant  
15 left the cockpit and another female flight attendant  
16 came into the cockpit?

17 MR. MCKAY: Objection to the form of the  
18 question.

19 A. I believe, yes, I am not sure if the male  
20 flight attendant came in first or the female flight  
21 attendant came in first, yes, but the female flight  
22 attendant left and I believe a female flight  
23 attendant came in.

24 Q. And how long was the female flight  
25 attendant in the cockpit before Scott came in?

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1 A. I would say two to five minutes.

2 Q. And do you know what Scott was doing  
3 between the time the second flight attendant came  
4 into the cockpit until the time he himself came into  
5 the cockpit?

6 A. At the time I didn't know that he was  
7 coming in, after he came in the other flight  
8 attendant that was already in the cockpit had said  
9 that they had asked Scott to go back to the back of  
10 the airplane and to walk back to the front of the  
11 airplane just to kind of look at all the passengers,  
12 make sure everyone was doing okay, because there was  
13 three of them in the cockpit or in the front galley  
14 at that time. On that walk, I guess, Scott had  
15 observed some additional, what he thought was  
16 inappropriate interactions, and when he came to the  
17 cockpit, he asked to approach the cockpit and talk  
18 to us about them.

19 Q. When you say additional inappropriate  
20 actions?

21 A. Repeated.

22 Q. Repeated whatever. Had you learned from  
23 that second flight attendant that there was some  
24 inappropriate touching going on?

25 A. Yes, that's what she was telling us at



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1 that time. And she told us that they had asked all  
2 the flight attendants to kind of go take a look and  
3 see if in their own mind thought that was normal or  
4 an abnormal type of interaction, just to make sure  
5 it wasn't somebody's judgment over another person's.  
6 They wanted to get multiple people to see what was  
7 going on.

8 Q. And what touching did she relay to you at  
9 that time?

10 A. The consistent story was that the  
11 gentleman was kind of leaning over and kind of, you  
12 know, I said on top, I don't mean sitting on, but  
13 laying kind of on the side and that was his arm was  
14 down in between the child's legs.

15 Q. What about any touching of the face?

16 MR. MCKAY: Objection to the form of the  
17 question.

18 A. At that time the, this is an hour into the  
19 flight, hour and a half into it flight, there was  
20 not any of that, but one of the flight attendants  
21 had mentioned that there was some facial caressing  
22 that was going on between the two of them, that she  
23 had witnessed at some point during the flight, I  
24 don't know if it was, I don't know when she  
25 witnessed it. I know we were made aware of it

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1 during this conversation that we were putting all  
2 the information together with the two flight  
3 attendants in the cockpit and us.

4 Q. So when you were in the cockpit with the  
5 two flight attendants, you became aware of facial  
6 touching and touching of the crotch?

7 MR. MCKAY: Objection to the form of the  
8 question.

9 A. As well as the child's just initial  
10 interaction with Anna, when she asked him about the  
11 seat or their position in row 13. The child was  
12 acting very hesitant and reserved and meek and from  
13 what I had heard the adult was kind of controlling  
14 the situation and then these other instances all  
15 kind of combined together.

16 Q. And at that point a decision was made by  
17 the captain to separate AD from Mr. Delvecchia,  
18 right?

19 MR. MCKAY: Objection to the form of the  
20 question, conflicts with prior testimony.

21 Q. Go ahead and answer.

22 A. Yes, it was, you know, we had four of us  
23 in the cockpit that we were discussing this and had  
24 discussed our courses of action that would lead to  
25 us separating them. We got to this point and I

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1 believe there was the captain that said I think we  
2 reached that point or we have reached that point and  
3 we should separate them for now and let, you know,  
4 more information come to light and maybe we can  
5 address the situation differently.

6 Q. And what was the reason or the objective  
7 in separating AD from Mr. Delvecchia?

8 MR. MCKAY: Objection to the form of the  
9 question.

10 A. I would say that all of our decisions were  
11 driven off of making sure that the child was handled  
12 in the safest course of action as possible. We are  
13 trying to make sure there was not anything  
14 inappropriate happening that couldn't be stopped if  
15 we could make anything and limit those interactions  
16 we wanted to do that. So it was just trying to  
17 separate the environment and diffuse the situation  
18 as peacefully as possible.

19 Q. Thank you.

20 EXAMINATION

21 BY MR. MCKAY:

22 Q. Mr. Mullin, well, this is interesting. So  
23 you sat here for two hours, sir, and answered  
24 questions under oath from me, many of those  
25 questions being what were the specifics of the

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1 information that was provided to you by the flight  
2 attendants. Do you remember those two hours, sir?

3 MR. MAYE: Objection to form.

4 A. Yes.

5 Q. Okay. You remember those two hours and  
6 then we took a little break and you sat in here with  
7 your attorney, and then now that your attorney --

8 MR. MAYE: Object to form.

9 MR. MCKAY: I am sorry, I was talking.

10 Did you hear me talking?

11 MR. MAYE: Object to form.

12 MR. MCKAY: You have an objection to the  
13 form and that's noted. Thank you.

14 Q. So you were seated here with your attorney  
15 and now all of a sudden in response to his questions  
16 you have a great deal more detail about what was  
17 said to you by the flight attendants, don't you?

18 MR. MAYE: Object to form.

19 A. No, it's the same details.

20 Q. Was it, because you never mentioned any  
21 facial touching to me, did you?

22 A. You didn't ask me about it.

23 Q. I asked you what information was provided  
24 to you by the flight attendants, sir. I asked you  
25 for the specifics, you sat here and said oh I just

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1 don't remember.

2 MR. MAYE: John, is there a question?

3 MR. MCKAY: I am sorry was I talking  
4 again?

5 MR. MAYE: I am wondering if there is a  
6 question.

7 MR. MCKAY: Can you hear me talking?

8 MR. MAYE: Object to form.

9 MR. MCKAY: Okay. Thank you very much.  
10 You have an objection to the form of the  
11 question, that's noted for the record, thank  
12 you.

13 Q. Do you remember that, sir?

14 A. Yes.

15 Q. And you were like, oh, I just gosh, I  
16 can't remember, but I remember that there was some  
17 discussion about the hands between the legs, right,  
18 you remember that?

19 A. You asked specifics about what was going  
20 on between the conversation the flight attendants  
21 gave me at each specific event and I answered those.

22 Q. So you are saying that if we look back at  
23 the record and read every single question that I  
24 asked you. There would be no question whatsoever  
25 where it would have been appropriate for you to

SHAWN E. MULLIN  
PETER DELVECCHIA vs FRONTIER AIRLINES

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1 bring up the facial touching, is that your testimony  
2 here, sir?

3 MR. MAYE: Object to form.

4 A. I can't remember every question you asked  
5 so I can't answer that question say yes or no, but  
6 like I said, the time in the situation where I was  
7 made aware of that was while all of us were having  
8 our conversation in the cockpit of the airplane. It  
9 was four of us in there, that was one of the pieces  
10 of information that became relevant to that time.

11 Q. It was one?

12 A. You asked me when did I make the decision  
13 or the captain make the decision to have him moved,  
14 you didn't, I believe I answered the question as  
15 clearly as I could.

16 Q. So you don't think there was any question  
17 I asked you during the past two hours that would  
18 have justified a response that you were told there  
19 was some facial touching?

20 MR. MAYE: Object to form.

21 A. I believe that there is, everyone is going  
22 to have different relevant parts. And as the series  
23 of questions that I was just asked, I answered the  
24 questions in the quickest way and the clearest way  
25 that I could, as they come up, and it seems I did

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1 for you. I don't think there is any difference.

2 Q. Your memory just got a new relevant point  
3 between the time that I left the room and the time  
4 that Mr. Maye started asking you questions. How did  
5 that happen?

6 MR. MAYE: Object to form.

7 A. It didn't make any difference, I don't  
8 know what you mean.

9 Q. I mean that all of a sudden there is a new  
10 data point in your testimony?

11 A. Yes, you asked a different question, he  
12 asked specifically if that happened, and I said,  
13 yes. That's when it happened, that's when I was  
14 made aware of it.

15 Q. That's the first time that when he asked  
16 you the leading question, that's the first time you  
17 were made aware of it?

18 A. No, that's the first time I thought of it  
19 in this conversation in this context.

20 Q. All right. So when were you told that  
21 there was facial touching?

22 A. At some point when the flight attendants  
23 were in the cockpit and we were trying to put all  
24 the data points together, and as we were sorting  
25 those out, one of the flight attendants mentioned

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1 that there was, like I said, I don't know when it  
2 occurred, but they had said that was one of the  
3 elements that had occurred.

4 Q. And that's when there were multiple flight  
5 attendants in the cockpit with the pilots?

6 A. From my memory, yes, there was one male  
7 flight attendant and one female flight attendant and  
8 the two pilots.

9 Q. And that's the first time you ever heard  
10 about facial touching?

11 A. That's the first time that I can recall  
12 it, yes.

13 Q. Okay. You would agree with me that you  
14 heard what you have testified to as a consistent  
15 story prior to that point, and that all involved the  
16 older gentleman leaning on the child and having his  
17 hands supposedly between the legs or as Mr. Maye put  
18 it in his crotch, is that accurate?

19 A. Yes.

20 Q. Okay. Now, with respect to facial  
21 touching, is that something that's typically brought  
22 to your attention in the cockpit?

23 A. No.

24 Q. Have you ever witnessed other people  
25 engaged in facial touching?



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1           A.    I think just as you asked me earlier, what  
2   is appropriate touching, it's the same thing.

3           Q.    I am sorry, the question was whether or  
4   not you ever witnessed other people engaged in  
5   facial touching?

6           A.    Yes.

7           Q.    Have you called the police in those  
8   instances?

9           A.    No, not always.

10          Q.    Not always?

11          A.    I mean depends on what the situation, the  
12   circumstances were. You know, I have had situations  
13   in the past where I haven't made the phone call to  
14   the police, but the police have been called for  
15   situations like that.

16          Q.    What have you called the police about?

17          A.    I have not called the police on any of  
18   them.

19          Q.    No, have you called the police about  
20   anything?

21          A.    Personally?

22          Q.    Yes.

23          A.    Other than to report house fires or  
24   something like that, no.

25          Q.    Okay. So what were the situations where

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PETER DELVECCHIA vs FRONTIER AIRLINES

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1 others called the police about facial touching that  
2 you were aware of it?

3 MR. MAYE: Object to form.

4 A. I would say the facial touching being the  
5 only event, you know, that they were interacting of,  
6 and there was none, but you know, I have been aware  
7 of, I have been privied to conversations of stories  
8 that many people have told me about times where they  
9 have had to, have people touch them inappropriately,  
10 I don't think that's.

11 Q. On the face?

12 A. Yes. That's one of the locations.

13 MR. MAYE: Object to form.

14 A. They were touching inappropriately on  
15 their face, it was unwanted, unsolicited,  
16 nonconsensual type, and it was done in a manner that  
17 was not willing, I guess. I don't know what the  
18 best word is.

19 Q. Okay. With respect to the information  
20 provided to you about Peter Delvecchia, touching his  
21 son's face, was it unwanted?

22 A. I can't make that determination.

23 Q. Was it nonconsensual?

24 A. I can't make that determination.

25 Q. Was it inappropriate?

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1 MR. MAYE: Object to form.

2 A. I physically can't make that  
3 determination. I have to take the information  
4 that's delivered to me.

5 Q. Why can't you make that determination?

6 A. Because I didn't see him.

7 Q. Fair point. Did you ask him?

8 A. No, I mean.

9 MR. MAYE: Object to form.

10 A. There was to point where anyone tried to,  
11 he never tried to communicate with us or interact  
12 with us and I am not going to go back there in the  
13 cabin in the middle of the flight.

14 Q. Okay. Let me make sure I understand. If  
15 a passenger doesn't choose to inform you of whether  
16 or not something is consensual it's okay for you to  
17 take that passenger's child away from them and place  
18 them in another row?

19 MR. MAYE: Object to form.

20 Q. Is that okay, sir?

21 A. That's not the question of the situation,  
22 our situation.

23 Q. Well, that's the question I am asking you?

24 A. I was addressing, the question is not  
25 relevant to our procedures.

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1 Q. You know you don't get to make that  
2 decision. I am asking you a question and I would  
3 appreciate if you would just listen to the question?

4 A. Sure.

5 Q. And answer the question that was asked.  
6 Okay. Can we agree on that?

7 A. Sure.

8 Q. Okay. So if a passenger doesn't choose to  
9 inform you whether or not some contact is consensual  
10 or appropriate, then is it okay for you, as the  
11 pilot to take that person's child away from them and  
12 put them into another row of the airplane?

13 MR. MAYE: Object to form.

14 A. No, that's not the situation that we had  
15 addressed and talked about for the last  
16 two-and-a-half hours.

17 Q. That wasn't my question.

18 A. No.

19 MR. MAYE: He is answering your question.

20 Q. It's not appropriate, is it?

21 A. I answered it.

22 MR. MAYE: That's what your attorney is  
23 saying, you don't have to say everything that  
24 he says.

25 A. I said no twice.

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1 Q. It's not appropriate, we can agree on  
2 that?

3 A. Yes.

4 Q. Okay great.

5 EXAMINATION

6 BY MR. MAYE

7 Q. I have follow up. Was the decision by you  
8 and the captain to separate AD from his father based  
9 on the information that there was inappropriate  
10 touching, was that, the decision to separate AD from  
11 his father, was that an appropriate decision?

12 MR. MCKAY: Objection to the form.

13 A. Yes.

14 Q. And why was it appropriate?

15 MR. MCKAY: Objection to the form.

16 A. Our goal is to create the safest  
17 environment for all of our passengers at the whole,  
18 at any time. And any time that we are made aware of  
19 or the flight attendants are aware of to witness any  
20 inappropriate situation that can be inappropriate or  
21 unsafe for any passenger we try to diffuse the  
22 situation and separate the passengers. And that's  
23 what we are always trying to do, is create the  
24 safest environment possible.

25 Q. And Mr. McKay, right before I asked you

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1 these questions, asked a question about the  
2 appropriateness of your decision to separate AD from  
3 Mr. Delvecchia. And your response to his question  
4 was no, and I am not sure you understood the  
5 question?

6 MR. MCKAY: Objection to the form.

7 Q. When you said no, what did you mean by  
8 saying no?

9 MR. MCKAY: Same objection.

10 A. He said my lack of knowing if it's  
11 consensual or nonconsensual, is that good enough for  
12 me to separate two people or Mr. Delvecchia from his  
13 son. And I said no, that's not enough information.  
14 But that wasn't the reason we separated them, so  
15 that's.

16 Q. You separated them because you had  
17 additional information?

18 A. Correct.

19 Q. What was that additional information?

20 MR. MCKAY: Objection to the form.

21 A. It was that there was several leading  
22 factors that all seemed inappropriate. Not only the  
23 interactions of the child, but also the touching and  
24 the inappropriate situations that had been witnessed  
25 by multiple flight attendants throughout an hour and

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1 a half of the flight.

2 Q. Okay. Thank you.

3 EXAMINATION

4 BY MR. MCKAY:

5 Q. Those are touching of a face and a hand  
6 supposedly between the legs, is that it?

7 A. And that child's interaction with the  
8 first flight attendant that asked them to move  
9 seats.

10 Q. Which was meek?

11 A. Meek and timid and not, you know,  
12 overpowered I guess is the, I don't know what the  
13 word is that they said, but those are the words that  
14 remind me of it.

15 Q. If a child passenger is observed to be  
16 meek, and the parents of the child traveling with  
17 the child puts their hand on the child, then that  
18 makes it appropriate to take the child away from the  
19 parent, correct?

20 MR. MAYE: Object to form.

21 A. It's not the situation, and no.

22 Q. Okay. And is this, your responses to  
23 Mr. Maye's questions, were those based on your  
24 training by Frontier?

25 A. Which responses, the course of action?

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1 Q. Well, the course of action you took in  
2 ensuring the safest trip for the passenger?

3 A. That's what all of our manuals state, and  
4 the most commonly used word in our manual is  
5 maintaining safety. And safety is paramount for all  
6 of us. Yes, that's following our guidance and  
7 trying to create the safest environment possible.

8 Q. Now, you have said all of our manuals.  
9 And you mentioned at the beginning of your  
10 testimony, three flight operations manuals, correct?

11 A. Yes.

12 Q. Are those the manuals you are talking  
13 about?

14 A. Yes.

15 Q. So within the four corners, so to speak,  
16 or cover to cover flight operations manual number  
17 one, we would find guidance for the situation?

18 A. No, like I spoke to you at the beginning  
19 of this conversation, all of our manuals are guides  
20 for us to use as we move forward. They were not  
21 instruction manuals for how you put together a VCR,  
22 it's about how do we deal with situations and take  
23 as much information as possible and try to come up  
24 with the safest course of action that we can for all  
25 of our passengers.



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1 Q. And I want you to make sure you understand  
2 this is not a case about putting together a VCR,  
3 this is a case about being punched four times in the  
4 back of his head and his son being taken to the back  
5 of the airplane barefoot and crying for over an  
6 hour. Do you understand that?

7 MR. MAYE: Object to form.

8 A. That's the first time I have heard some of  
9 that information. So I understand that now that you  
10 have told me, but until you spoke of that, that was  
11 not my interpretation of any of the events that  
12 occurred.

13 Q. Because you didn't go to find out?

14 A. No, because that was not the information  
15 that was derived or delivered to us, as we asked  
16 about it, as it was occurring.

17 Q. No one told you that Scott Warren punched  
18 the guy?

19 MR. MAYE: Object to form.

20 A. No one said that to me, no.

21 Q. Nobody told you that the boy was in back  
22 barefoot and crying and cold in the back row?

23 A. I was aware that he was barefoot, but that  
24 was information that came about yesterday in the  
25 meeting, but not until then.

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1 Q. But nobody on the plane told you that?

2 A. No. They said they tried to interact with  
3 him. They tried to interact with the child and ask  
4 him what was going on. And they offered him juice  
5 and other things and didn't do anything. Didn't  
6 drink any of it or eat any of it.

7 Q. Now, when we began this deposition you  
8 said the other day you had done multiple searches of  
9 your flight operations manual volume one and had  
10 found nothing on this situation. And later in your  
11 deposition you talked about the contents concerning  
12 the threat levels and we had some discussion about  
13 that. And now all of a sudden these manuals are  
14 broad based guides for how to deal with this  
15 situation?

16 MR. MAYE: Object to form.

17 A. That's not what I said. I had said I  
18 hadn't, I had done some multiple searches and I  
19 hadn't found anything other than the safety or the  
20 security threat levels that was relevant to any of  
21 the discussions, and even in that, it's not hundred  
22 percent applicable.

23 Q. Have you ever been convicted of a crime?

24 A. No, other than speeding tickets.

25 Q. That's all I have.

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1 MR. MAYE: No further questions.

2 VIDEOGRAPHER: This concludes the video  
3 deposition of Shawn Edward Mullin on Tuesday  
4 December 10th, 2019. The time is approximately  
5 1:31 p.m. We are going off the video record.

6 (The deposition concluded at  
7 1:31 p.m.)

8 \* \* \* \* \*

SHAWN E. MULLIN  
PETER DELVECCHIA vs FRONTIER AIRLINES

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CERTIFICATE OF DEPONENT

PAGE	LINE	CHANGE
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\* \* \* \* \*

I, SHAWN EDWARD MULLIN, deponent herein, do hereby  
certify and declare under penalty of perjury the within and  
foregoing transcription to be my deposition in said action;  
that I have read, corrected and do hereby affix my signature  
to said deposition.

\_\_\_\_\_  
SHAWN EDWARD MULLIN, Deponent

SHAWN E. MULLIN  
PETER DELVECCHIA vs FRONTIER AIRLINES

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CERTIFICATE OF REPORTER

I, Shifra Moscovitz, Certified Court Reporter,  
State of Nevada, do hereby certify:

That I reported the deposition of SHAWN EDWARD  
MULLIN, commencing on Tuesday, December 10, 2019, at 10:00  
a.m.

That prior to being deposed, the witness was duly  
sworn by me to testify to the truth. That I thereafter  
transcribed my said shorthand notes into typewriting and  
that the typewritten transcript is a complete, true and  
accurate transcription of my said shorthand notes. That  
prior to the conclusion of the proceedings, the reading and  
signing was requested by the witness or a party.

I further certify that I am not a relative or  
employee of counsel of any of the parties, nor a relative or  
employee of the parties involved in said action, nor a  
person financially interested in the action.

In witness whereof, I hereunto subscribe my name  
at Las Vegas, Nevada, this 26th day of December, 2019.

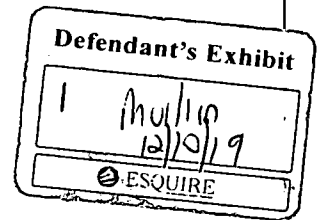


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*Attorneys for Plaintiffs PETER DELVECCHIA and  
A.D., a Minor*



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

PETER DELVECCHIA, et al.,  
Plaintiffs,

vs.

FRONTIER AIRLINES, INC., et al.,  
Defendants.

**Case No: 2:19-CV-01322-KJD-NJK**

**PLAINTIFFS' NOTICE OF  
DEPOSITION OF SHAWN MULLIN**

PLEASE TAKE NOTICE that the undersigned attorney for Plaintiffs, Peter DelVecchia individually and as next friend of A.D., a minor, will take the deposition of the person named herein, at the time and place specified below, upon oral examination before a Notary Public or other person authorized to administer oaths, to be recorded by stenographic and audiovisual means, for discovery

**PLAINTIFFS' NOTICE OF DEPOSITION OF SHAWN MULLIN**

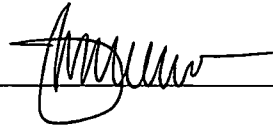


1 I HEREBY CERTIFY that on December 2, 2019, pursuant to prior agreement of counsel  
2  
3 permitting electronic service by email, I served the foregoing First Supplemental Initial Disclosures  
4 on counsel for Defendants by email addressed to the following persons:

5 Brian T. Maye, Esq.  
6 Tara Shelke, Esq.  
7 ADLER MURPHY & McQUILLEN LLP  
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13 Las Vegas, Nevada 89101  
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AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

## UNITED STATES DISTRICT COURT

for the  
District of Nevada

PETER DELVECCHIA, et al.

*Plaintiff*

v.

FRONTIER AIRLINES, et al.

*Defendant*

Civil Action No. 2:19-cv-01322-KJD-NJK

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Shawn Edward Mullin, 353 E. Bonneville Ave. Unit 820, Las Vegas, NV 89101

(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Titolo Law Office  
9950 West Cheyenne Ave.  
Las Vegas, Nevada 89129

Date and Time:  
12/10/2019 10:00 am

The deposition will be recorded by this method: Stenographic and audiovisual

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: Any and all notes, memoranda, emails, or other documents pertaining to the passengers seated in seats 17E and 17F on Frontier Airlines Flight 2067 between RDU and LAS on March 28, 2019, including, without limitation, notifications received from flight attendants, the decision to separate them, the request for law enforcement officers to meet the flight at LAS, and any post-landing actions.


The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/02/2019

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

  
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Peter DelVecchia

, who issues or requests this subpoena, are:  
John D. McKay, Esq., Park Avenue Law LLC, 127 W. Fairbanks Ave. #519, Winter Park, FL 32789; (800) 391-3654;  
johndmckayatty@gmail.com

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:19-cv-01322-KJD-NJK

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

Print

Save As...

Add Attachment

Reset

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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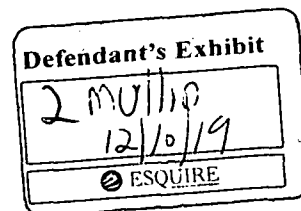
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3.  
Time 03/29 0343z  
SMI CMD  
Description Uplink - FROM KLAS OPS  
Flight F92067  
Tail N230FR  
Dep KRDU  
Arr KLAS  
DSP ID No Value  
Freetext FROM KLAS OPS

ETA 2150  
WHEELCHAIRS 5  
ELEC CART  
ICE BAGS  
UMS  
GATE D22  
GATE AVAIL AT ARRIVAL Y  
GND PWR Y  
AIR START N  
AIR COND Y  
NEXT FLIGHT 2000  
NEXT DEST ATL

-COPY THEY WILL MEET THE FLT IF THERE IS ANYMORE WITNESSES PLEASE DEPLANE THEM LAST AS WELL SO THEY CAN GIVE STATEMENTS....



4.

Time 03/29 0337z

SMI M14

Description Special Request

Flight F92067

Tail N230FR

Dep No Value

Arr KLAS

DSP ID DDL

Freetext 6393,JUST CONFIRM WE WILL,HAVE LEOS STANDING BY,AT THE GATE.,WE WILL DEPLANE THE,ADULT AND CHILD LAST

---

5.

Time 03/29 0314z

SMI CMD

Description Uplink - LEOS WILL MEET T

Flight F92067

Tail N230FR

Dep KRDU

Arr KLAS

DSP ID No Value

Freetext LEOS WILL MEET THE FLIGHT.

NO NEW INFO ON ADULT.

---

6.

Time 03/29 0311z

SMI A81

Description Aircrew Message

Flight F92067

Tail N230FR

Dep No Value

Arr No Value

DSP ID DDL

Freetext CONFIRM THAT WE ARE SETFOR OUR ARR WITH LEO.ALSO IS THERE FURTHER INFO ON THIS ADULT..THEY ARE STILL SEPARATED

---

7.

Time 03/29 0155z

SMI A81

Description Aircrew Message

Flight F92067

Tail N230FR

Dep No Value

Arr No Value

DSP ID DDL

Freetext THE FAS WHITNESSED IT. THEY ARE SEPERATED NOW

---

8.

Time 03/29 0153z

SMI CMD

Description Uplink - did the FAs with

Flight F92067

Tail N230FR

